penalties lawfully imposed by the trustees of any public or incorporated library in the District of Columbia, and shall be applicable when the offense is not otherwise punishable by some statute of the United States."

Mr. BACON. To what libraries does the bill refer?

Mr. BURKETT. The District library, and——

Mr. OVERMAN. The Congressional Library.

Mr. BACON. If it applies to the Congressional Library I am absolutely opposed to it.

Mr. KEAN. I understand there is a report accompanying the bill.

Mr. OVERMAN. Let the bill go over so that we may examine it.

The VICE-PRESIDENT. The bill will lie over.

OSAGE ENROLLMENT.

Mr. OWEN. I wish to call up the joint resolution (S. R. 70) for the enrollment of certain persons as members of the Osage tribe of Indians, and for other purposes.

Mr. KEAN. The Senator from Massachusetts [Mr. LODGE] I know desires to be present when the joint resolution is considered.

Mr. OWEN. It is merely to send to the Court of Claims the claims of certain persons, 33 or 34, who desire to be enrolled.

Mr. KEAN. Let it go over.

The VICE-PRESIDENT. The joint resolution will lie over.

MONONGAHELA RIVER BRIDGE.

Mr. PENROSE. I ask unanimous consent for the consideration of the bill (H. R. 25552) to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company," approved March 2, 1907.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded with its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEATH OF REPRESENTATIVE DANIEL L. D. GRANGER.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island, and transmitted resolutions of the House thereon.

The message also announced that the Speaker of the House had appointed Mr. CAPRON of Rhode Island, Mr. HOWARD of Georgia, Mr. BOUTELL of Illinois, Mr. UNDERWOOD of Alabama, Mr. HILL of Connecticut, Mr. SLAYDEN of Texas, Mr. HUGHES of New Jersey, Mr. WASHBURN of Massachusetts, Mr. WILLIAMS of Mississippi, Mr. PARSONS of New York, Mr. SHERLEY of Kentucky, Mr. GAINES of Tennessee, Mr. RYAN of New York, Mr. O'CONNELL of Massachusetts, and Mr. MARCUS A. SMITH of Arizona members of the committee on the part of the House.

Mr. ALDRICH. Mr. President, I ask that the resolutions just received from the House of Representatives be laid before the Senate.

The VICE-PRESIDENT. The Chair lays before the Senate resolutions from the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island.

Resolved, That a committee of 15 Members of the House be appointed by the Speaker to take order superintending the funeral of Mr. GRANGER at Providence, R. I., and to attend the same with such Members of the Senate as may be appointed by the Senate.

Resolved, That the Sergeant-at-Arms of the House be, and he is hereby, authorized and directed to take such steps as may be necessary to carry out these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the House do now stand in recess until 11 o'clock a. m. to-morrow.

Mr. ALDRICH. Mr. President, I offer resolutions which I send to the desk.

The VICE-PRESIDENT. The Senator from Rhode Island submits resolutions which will be read by the Secretary.

The Secretary read the resolutions, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island.

Resolved, That a committee of seven Senators be appointed by the Presiding Officer, to join a committee appointed on the part of the House of Representatives, to attend the funeral of the deceased at Providence, R. I.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The resolutions were considered by unanimous consent and unanimously agreed to.

Under the second resolution the Vice-President appointed Mr. ALDRICH, Mr. WETMORE, Mr. BURROWS, Mr. MONEY, Mr. CLARKE of Arkansas, Mr. TALIAFERRO, and Mr. TAYLOR, members of the committee on the part of the Senate.

Mr. ALDRICH. Mr. President, I offer the following additional resolution.

The VICE-PRESIDENT. The resolution will be read by the Secretary.

The Secretary read the resolution, as follows:

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

The resolution was considered by unanimous consent and unanimously agreed to.

Thereupon the Senate (at 6 o'clock and 9 minutes p. m.) adjourned until to-morrow, Tuesday, February 16, 1909, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *February 15, 1909.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty Father, look down, we beseech Thee, upon us with compassion and forgive our sins as individuals and as a Nation, and inspire in us a greater love and admiration for those things which make for righteousness in the soul, that we may go forward with the work which Thou hast given us to do with a clear vision, pure conscience, and high ideals that at last we may merit the "Well done, good and faithful servant."

We are reminded by the death of one of the Members of this House of the uncertainty of life, that in the midst of life there is death. Help us, our Heavenly Father, to be prepared for the change which will bring us into a larger life. Comfort, we pray Thee, the family and friends of the deceased, and guide us all to the larger faith in Jesus Christ, our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

SALARY OF THE SECRETARY OF STATE.

Mr. GAINES of West Virginia. Mr. Speaker, I move that the Committee on Election of President, Vice-President, and Representatives in Congress be discharged from the further consideration of the bill S. 9295, and that the rules be suspended and that the same be passed.

The SPEAKER. The gentleman from West Virginia moves that the Committee on Election of President, Vice-President, and Representatives in Congress be discharged from the further consideration of the bill S. 9295, that the rules be suspended and that the same be passed. The Clerk will read the bill.

The Clerk read the bill, as follows:

A bill (S. 9295) in relation to the salary of the Secretary of State.

Be it enacted, etc., That section 4 of the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1908, and for other purposes," approved February 26, 1907, so far as the same relates to the annual compensation of the Secretary of State, be, and the same is hereby, repealed.

The SPEAKER. Is a second demanded?

Mr. RUCKER. I demand a second.

Mr. HENRY of Texas. I demand a second.

Mr. GAINES of West Virginia. I ask unanimous consent, Mr. Speaker, that a second be considered as ordered.

Mr. RUCKER. Pending that request, I ask unanimous consent that the time of debate be extended to two hours on a side.

Mr. GAINES of West Virginia. I am compelled, Mr. Speaker, to object to that; I would like to give what time is desired for debate, but there are other matters pressing.

Mr. RUCKER. In view of the importance of this matter, I will ask if we can not agree on one hour on a side for debate?

Mr. GAINES of West Virginia. If I did not make objection others would, and I am constrained to object.

Mr. LASSITER. I join in the request of the gentleman from Missouri.

The SPEAKER. Is there objection to the request that a second be considered as ordered?

Mr. HENRY of Texas. I desire to make a request that unanimous consent be given.

The SPEAKER. But the first thing is to see whether this matter is to be voted upon at all.

Mr. HENRY of Texas. I object.

The SPEAKER. The gentleman from West Virginia [Mr. GAINES] and the gentleman from Texas [Mr. HENRY] will take

their places as tellers. All those in favor of ordering a second will pass between the tellers.

The House divided and the tellers reported that there were 116 ayes and 60 noes.

The SPEAKER. On this vote the ayes are 116 and the noes are 60, and a second is ordered. The gentleman from West Virginia is entitled to twenty minutes and the gentleman from Texas to twenty minutes.

Mr. HENRY of Texas. The gentleman from Missouri is entitled to twenty minutes.

The SPEAKER. The Chair recognized the gentleman from Texas because he demanded a second.

Mr. RUCKER. The Speaker is wrong; I demanded a second.

The SPEAKER. The Chair did not hear the gentleman from Missouri.

Mr. RUCKER. That is what the Speaker is there for.

The SPEAKER. The Chair again states that he was looking at the gentleman from Missouri and failed to hear him demand a second, but he did hear the gentleman from Texas. So the Chair does not charge himself with any laches.

Mr. HENRY of Texas. Mr. Speaker, on account of a misunderstanding I desire the gentleman from Missouri to have the control of the twenty minutes.

Mr. CLARK of Missouri. Mr. Speaker, I would like to ask unanimous consent for an hour's debate on each side of this proposition. If you gentleman have enough votes over there to pass the bill you can pass it and debate will not do any particular harm.

The SPEAKER. The gentleman from Missouri asks unanimous consent for one hour's debate on each side.

Mr. PAYNE. Reserving the right to object, Mr. Speaker, I want to say that other matters are pressing the House to-day and we will hardly get through; and in view of the fact that we have wasted fifteen minutes in ordering a second I shall have to object to any extension of debate.

Mr. HENRY of Texas. I should like to submit a request for unanimous consent that would obviate the objection that the gentleman from New York made. I ask unanimous consent that we have an evening session, beginning this evening at 8 o'clock and continuing until 11 o'clock, which will give us an hour and a half on each side.

Mr. PAYNE. The regular order, Mr. Speaker.

The SPEAKER. The regular order is demanded. The gentleman from West Virginia is recognized for twenty minutes.

Mr. GAINES of West Virginia. I yield eight minutes to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, the bill under consideration, and which has just been read at the Clerk's desk, in and of itself in nowise offends against any provision of the Constitution. No one has said—and, I take it, no one will contend—that the enactment of this particular measure will be in violation of the organic law, but the most that is urged against it is that it is an attempt to avoid an alleged ineligibility which may arise hereafter in a possible case. This bill simply seeks (1) to repeal that part of the act of June 30, 1908, which relates to the annual compensation of the Secretary of State and fixes this compensation at the rate of $8,000 per annum, which was the compensation named in the former statute covering the subject; (2) to provide that there shall be no emoluments attached to the office of Secretary of State other than those in force on the 1st day of May, 1904; (3) and stipulates that the pending measure, if enacted, shall be in force from and after March 4 next. It seems to me too plain for argument, and therefore a waste of time, to say that there can be no constitutional obstacle to the passage of this bill.

Undoubtedly this is true, unless we look beyond the terms of this measure and consider as inseparably related to it the possibility of the appointment of Senator KNOX to the office of Secretary of State. If we were permitted to follow the example of a good lawyer before a court, we would confine ourselves to the case at bar, to the particular question before the tribunal, rather than seek for a moot case, and discuss a question that might arise before some other tribunal in some other case at some future time.

Mr. Speaker, in considering the pending measure I believe we have nothing to do with what may be the question presented to the Senate in the near future upon the happening of a possible contingency. To put it plainer, I do not believe that in considering the measure now before the House we have anything to do with a decision of the question which will be presented to the Senate when that body sits as a part of the appointing power to consider the nomination of Senator KNOX as Secretary of State, which nomination is now probable, with every prospect of being made a certainty on the 4th of next month.

I have no objection to urge against this bill which reduces the salary of the Secretary of State. By its very terms it does not relate to any other matter. If I had the opportunity I would vote to reduce the salary of every other Cabinet officer to $8,000. I do not believe that any man has ever accepted a place in any presidential cabinet on account of any salary inducement. It seems to me that $8,000 per annum is enough salary for such a position. Therefore, because this bill does not violate any provision of the Constitution and does reduce the salary of the Secretary of State, I shall vote for it.

I concede, Mr. Speaker, that many of my associates here, whose opinions I value highly, do not agree with the line of argument that I have pursued; so, out of deference to them and for the sake of further argument, I shall consider as best I can in the brief time allowed me the question of the eligibility of Senator KNOX for the portfolio of Secretary of State in the Cabinet of the incoming President.

The second paragraph of section 6 of Article I of the Constitution of the United States is in the following language:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office.

To correctly understand any provision of law it is essential to know the good which it is intended to provide and the evil which it is intended to prevent. The rule is stated by an eminent authority to be as follows:

> The mischief intended to be removed or suppressed or the cause or necessity of any kind which induced the enactment of a law are important factors to be considered in its construction. The purpose for which the law was enacted is a matter of prime importance in arriving at a correct interpretation of its terms.

Again Judge Story says:

> The reason and spirit of the law, or the causes which led to its enactment, are often the best exponents of the words, and limit their application.

And again he says:

> The rules then adopted are, to construe the words according to the subject-matter, in such a case as to produce a reasonable effect, and with reference to the circumstances of the particular transaction. Light may also be obtained in such cases from contemporary facts or expositons; from antecedent mischiefs, from known habits, manners, and institutions; and from other sources almost innumerable, which may justly affect the judgment in drawing a fit conclusion in the particular case. (Story on Const., vol. 1, pp. 305–307.)

These rules apply in the construction of any part of a constitution as well as they do in the construction of a statute. A reference to the debates in the convention which framed our Constitution will reveal the fact that there was a twofold purpose in rendering Senators and Representatives ineligible to offices created, or the emoluments of which were increased during the time for which they were elected. It is worthy of note that when this provision was under discussion in that convention, it was attempted to make the bar against Senators and Representatives perpetual, and that this was defeated. This provision was designed in the first place to protect the people from such Senators and Representatives who might be willing to create offices or increase salaries in order that they might enjoy them; and, in the second place, it was designed to remove Congress as far as possible from the influence which such appointments might give the executive over the legislative branch of the Government. If the object was to prevent Senators and Representatives from increasing the salaries of offices and then becoming the beneficiaries of such increase by executive appointment, it obviously follows that the repeal of the law which increased the salary of the Secretary of State would remove the case of Senator KNOX from the reason of the rule, and I think it manifest that it would also remove his case from the operation of the rule.

There can be no dispute that, by repealing the law which increased the salary and restoring the old salary, Senator KNOX, as Secretary of State, would not be benefited by the law passed while he was a Member of the Senate; and therefore the reason which prompted the framers of the Constitution to adopt that provision rendering Senators and Representatives ineligible to certain offices pointed out in the provision which I have read would not longer be applicable. The maxim that "When the reason ceases the rule itself ceases" is not of universal application, and it must be conceded that no matter what the reason of the rule may be, if the rule itself still applies to a given case, then the rule must be followed. Those who contend that the repeal of the law increasing the salary of the Secretary of State will not render Senator KNOX eligible base their contention on the clause which declares, "or the emoluments whereof shall have been increased during such time." Reading that language in the light of the purpose which it was intended to serve,

it seems plain to me that it contemplates a continuing condition, and applies, therefore, in a case only where the officer would enjoy the increased emoluments. In the event of the enactment of this bill and the appointment of Senator KNOX he will not "be appointed to any civil office * * * the emoluments whereof shall have been increased." This bill does not attempt to repeal a fact, as is tritely stated, but it seeks to repeal a condition created by a legislative enactment, and it is not to be denied that if Congress has created it can remove the condition. The power to create carries with it the power to destroy.

I venture the opinion that this provision was not intended to apply to a case where an act was passed by Congress, and afterwards, for any reason, repealed, thus restoring the old status. This view is sustained by the rule of construction, that when a statute has been repealed it is the same as to future consequence as if it had never been enacted, unless in the repealing act there is some saving clause.

It is a well-known doctrine applied in construing penal statutes, that if a statute denouncing a given act as a crime has been repealed there would be no warrant or authority for the prosecution of a person for the offense denounced by that statute, even though the offense was committed before the statute was repealed. The prosecution in such a case could not proceed except under the law existing at the time of the trial.

"The general rule is that when an act of the legislature is repealed without a saving clause it is considered, except as to transactions past and closed, as though it had never existed." (Section 282 (162), Lewis Sutherland, Statutory Construction and cases cited.)

"The repeal or expiration of a statute imposing a penalty or forfeiture will prevent any prosecution, trial, or judgment for any offense committed against it while it was in force, unless the contrary is provided in the same or some other existing statute. * * *

"There can be no legal conviction for an offense unless the act be contrary to law at the time it is committed; nor can there be judgment unless the law is in force at the time of the indictment and judgment."

Section 286 (166), Lewis Sutherland, Statutory Construction and cases cited.

If this be the true rule, then we may say that, for a stronger reason, we must conclude, that in testing the right to an office, the law as it exists when the test comes ought to govern.

We speak of this question as a constitutional disqualification, but it must be remembered that the Constitution does not prohibit, in a case like that under consideration, proprio vigore, that there must be some statute enacted before the constitutional disqualification can attach; and it seems to me that, when called upon to decide the question of eligibility vel non, the decision must be made under the Constitution and upon the statutory law existing at the time of the decision. Ineligibility is made up of the constitutional provision and a statutory enactment. If the statute has been repealed before the question of ineligibility arises, there is then no law to which the constitutional provision can be applied.

On account of his high character, eminent ability, and long and successful experience in public life, Senator KNOX will doubtless be nominated by the President to the Senate on March 4 next for Secretary of State. There will then be no existing statute increasing the emoluments of that office enacted while he was a Senator, and I doubt not that the Senate will confirm him. That great body is fully capable of interpreting any provision of the Constitution. Perhaps it is not too much to say that the interpretation of this provision of the Constitution in such a case is confided to the Senate as a part of the appointing power. In my judgment, that tribunal will not "stick in the bark" and say that there was at one time a statute increasing the emoluments of the Secretary of State, enacted while Mr. KNOX was a Senator, but will go deeper and put their decision upon the ground that, on the 4th of March next, there is no statute increasing the emoluments of the office of Secretary of State, enacted during the time for which Senator KNOX was elected, and therefore no constitutional disqualification arises.

It is evident, and it is complimentary to that distinguished gentleman, that when he was selected, conceding that he has been selected, by Mr. Taft as the ranking member of his official family, the matter of salary was not thought of by him, and therefore this question as to his eligibility never occurred to him. Had the salary been any inducement to him the question discussed here to-day would naturally have presented itself for his learned consideration. [Applause.]

Mr. CLARK of Missouri. Mr. Speaker, I would vote for this bill to cut down the salary of the Secretary of State if that were the whole of it; but we all know that this bill is an attempt to make a man eligible as Secretary of State who is ineligible under the Constitution of the United States. [Applause.] This bill is simply an effort to override the Constitution by statute. We are asked to stultify ourselves, for that is exactly what it amounts to, for fear that we will be personæ non gratæ at the White House. [Applause.]

Paragraph 2 of section 6 of Article I of the Constitution of the United States reads, in part, as follows:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time.

There is, there can be, no dispute about the facts in this case. Senator KNOX was elected for a term beginning March 4, 1905, and ending March 3, 1911. He began serving that term March 4, 1905, and has been serving it ever since. Some two years ago, while he was serving that senatorial term, the salaries of all Cabinet officers, including that of Secretary of State, were increased from $8,000 to $12,000. The fact that he voted for the increase has nothing to do with it. If he had voted against it or had not voted at all, would have been all the same.

The act which makes Senator KNOX ineligible to Judge Taft's Cabinet prior to March 4, 1911, when Senator KNOX's present term expires, is an accomplished fact, and all the statutes that this Congress could pass between now and the 4th of March next, if it did not do anything else but pass statutes on that subject, would not make him eligible. It can not be done. Even if the Congress had repealed the law increasing cabinet salaries in fifteen minutes after the President signed it, Senator KNOX would still be barred. The only way to qualify him is to repeal that clause of the Constitution.

Certain newspapers have wanted to know of me whether this is a political question. I have said "No." I say now that it is not a political question. It is a question of the construction of the Constitution. It is a question of understanding plain English, and the fathers who made the Constitution were wise in putting this provision into the Constitution. They were wise then, and it would be the part of wisdom now, if it was not in the Constitution, to put it in. I do not care what the editors say about the idiocy of the fathers of the Constitution, or what they say about the corruption of that time being so great that they had to put this provision in to restrain that generation. It is in there and we can not take it out. It is right that it should be in there, and for one I would not stultify myself if I knew that we would not have any Secretary of State during the next two years. [Applause.]

Mr. RUCKER. I yield five minutes to the gentleman from Texas [Mr. GILLESPIE].

Mr. GILLESPIE. Mr. Speaker, as I understand it, in this case we have no reason, no right, to refer to the constitutional convention and what occurred there, because the provisions of the Constitution in question are plain, they are emphatic, they are unequivocal. The salary of the Secretary of State has been increased. The increased salary has been received for two years. The constitutional prohibition is complete. Mr. Speaker, what attitude would we be in here if we were considering the passage of a statute like this?

> *Be it enacted, etc.,* That any Senator or Representative may, during the time for which he was elected, be appointed to any civil office under the authority of the United States the emoluments whereof shall have been increased during the time for which he was elected: *Provided, however,* That such Senator or Representative shall not receive the increased salary, but shall only receive such salary as was fixed by law before the said increase.

What would we be attempting to do? To amend the Constitution of the United States by legislative enactment, and that is the purpose of this bill. Mr. Speaker, I do not know how others feel, but for myself I will forever feel humiliated if this Congress in this way deliberately passes this act to override the Constitution of the United States. I believe it not only violates the letter of the Constitution, but it violates the spirit of the Constitution. Are we going to say that the United States Senators or Members of the House may engage in these evil machinations and schemes, in these designs which always involve the increase of other salaries, and then pass a bill like this, temporarily reducing the salary, as an avenue of escape? This is not a question of reducing a salary, and everybody here knows it. If the question were upon its merits of reducing the salary of the Secretary of State, I believe that there would not be 10 per cent of the Members of this House who would vote to reduce the salary of the Secretary of State from $12,000 to $8,000. I myself would vote to-morrow to restore this salary to $12,000. No; it is not a question of reducing a salary, and we can not shield ourselves behind that proposition. Any Senator or Member would know, if appointed under such cir-

cumstances, that his influence within his party, if it is strong enough to enable him to be appointed Secretary of State, would be strong enough to have this salary restored. It is true the bill says that no future Congress shall restore this salary. This is only another absurdity of this bill. We can not control future Congresses. Absurdities accumulate in this bill. The salary of the Secretary of State is too low now, and that is what nearly all of us believe. You are voting upon this bill upon the other proposition, and not upon the merits of the proposition incorporated in the bill. I do not charge that anything of evil entered into the raising of the Secretary of State's salary. I do not believe that such was the case, but I say all the possible mischief that the Constitution undertakes to protect the country from lives in this act. It is a violation of both the letter and the spirit of this provision of the Constitution. Mr. Speaker, when the temperance people come here for legislation, they are told the Constitution is in their way; when labor demands legislation, its representatives are told the Constitution is in their way. Let us live up to the Constitution. If it applies to one let it apply to all. [Applause.]

[Here the hammer fell.]

By unanimous consent, Mr. GILLESPIE was granted leave to extend his remarks in the RECORD.

Mr. GAINES of West Virginia. Mr. Speaker, I yield one minute to the gentleman from New Jersey [Mr. PARKER.]

Mr. PARKER. Mr. Speaker, I find the provision of the Constitution as plain as its intent. The Constitution is dealing with an appointment. It deals with an office that shall exist at the time of the appointment. It asks, first, whether that office so then existing was created during the term of the Senator or Representative. It deals with emoluments—that is, benefits, gain, or advantage—existing at the time of the appointment, and it asks, second, whether those emoluments include any increase made during the term of the legislator. The words are:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created—

and which must therefore then exist—

or the emoluments whereof shall have been increased during such time.

The wording is future—"shall have been increased." They would have said, "had been increased" if they had meant to cover past emoluments.

[Here the hammer fell.]

By unanimous consent Mr. PARKER was granted leave to extend his remarks in the RECORD, and under such leave Mr. PARKER submits the following:

The section is not dealing with emoluments that had been increased and then diminished, or with an office that had been created and then abolished, but with an existing office that "shall have been created," and with emoluments that "shall have been increased." The provision relates to the time of appointment, and therefore with advantage or emolument to be received, and not with past provisions which have no force at the time of the appointment. It submits a practical question, that the Senator or Representative during his term shall take no advantage or emolument from legislation. The provision accurately covers what was intended—the prevention of such personal advantage during the term of service for which the Representative or Senator has been chosen. It will not be twisted by construction out of this intent so as to prevent appointment if the emoluments of former tenants of the office had been increased by legislation afterwards repealed.

The provision does not deal with past offices or past emoluments, but with those still existing at the time of appointment. It does not deal with what other officeholders have received, but with what the legislator who is appointed is to receive. It is a practical provision. Its intent is plain, and I believe it to be plainly expressed; if there be any doubt, it will be so construed as only to carry out that intent, and not to bar good men from the service of their country except when their own legislation has created emoluments which by such appointment would go to them.

Every rule of reasonable construction should apply. Courts consider the old law, the mischief, and the remedy, in order "so to construe the act as to suppress the mischief and advance the remedy." In such construction they even disregard the words of a statute in order to attain this result only. A statute declaring leases made by a bishop to be void if made for more than three lives was held to be made for the benefit of the successor, and therefore such a lease was held good during the life of the bishop and only void thereafter.

The Nation can not rightly be barred from the aid of its greatest men. The Constitution does not bar any man, Senator or Representative, from serving his country, except to exclude him from being appointed to an office which brings increased emoluments. This provision if at all doubtful would be limited so as to go no further than the evil intended to be met. But it is plain on its face. The single sentence relates to an appointment to an office existing then and emoluments existing then that may have been created or increased, and to these only.

Mr. GAINES of West Virginia. I yield two minutes to the gentleman from Virginia [Mr. LASSITER].

Mr. LASSITER. Mr. Speaker, I had hoped that it would have been the pleasure of this House to extend the time for debate upon this important question. I shall not undertake in the brief time allotted me to discuss at any length the constitutional question involved in the passage of this act or in any subsequent questions which may grow out of the action to-day of this House. I have listened with great pleasure to my friend, the gentleman from Alabama [Mr. CLAYTON], and I would be glad to adopt as my sentiments upon the construction of the Constitution of the United States the handsome argument which he has made before the House to-day. I yield to no man, Mr. Speaker, in my reverence for the Constitution of the United States. I believe, however, that if we are to maintain the Constitution in its strength and in that regard in the hearts of the people which it ought to have, it ought to be construed in accordance with its manifest spirit and not in unillumined literalness.

I was glad to hear the gentleman from Missouri [Mr. CLARK] say that this was not a party question. It ought not to be decided by a party vote. If it is to be decided by a party vote, every gentleman on this side of the Chamber should vote for the passage of this act.

If gentlemen on this side believe that it is the intention of Mr. Taft to perform a Cæsarean section upon the Constitution to bring the Senator from Pennsylvania into his Cabinet; if they believe that they can convince the courts or the country that the first act of the new administration is in violation of the Constitution, it might be strategical to invite our political opponents into such a situation. There is no constitutional question before the House at this moment, nor will we ever be the tribunal to pass upon the constitutionality of what may indirectly come from the passage of this bill. It seems to me that the real question involved in this discussion is, Shall the Democrats undertake to interfere in the formation of Mr. Taft's Cabinet? For one, I shall not stand for mere obstruction. I shall be glad to accord to the Executive, one of the coordinate branches of the Government, such consideration as I constitutionally may in a matter of grave import to the new administration. If this act shall be passed, there will be no impediment. I do not believe that it can be maintained that under the sixth section of the Constitution Congress can create a status for an individual which, in such a case as this, a subsequent act of Congress can not annul.

Mr. GAINES of West Virginia. Mr. Speaker, I propose to close debate on this side in one speech, and I therefore ask the gentleman from Missouri to exhaust some of his time.

Mr. RUCKER. Mr. Speaker, in voicing my opposition to the pending measure I confess to some embarrassment. We on this side of the aisle, and I believe the entire country, hailed with delight the newspaper announcement that the President-elect had tendered a prominent place in his Cabinet to that distinguished citizen of Pennsylvania, Senator KNOX. We recognize in him all the eminent qualifications which fit and prepare him for that high station and which would enable him to discharge its duties with credit to himself and with honor to his country. The pending measure, Mr. Speaker, is harmless and innocent on its face, but let me say to gentlemen who have just discussed the pending question that they can not hide behind the provisions of this bill, because I charge that every man here knows that the purpose of this legislation is not to reduce a salary which is supposed to be too high. The real and only purpose of this legislation is to suspend the Constitution in mid-air, to rend, annul, and destroy it. [Applause on the Democratic side.] We learn through the press that the President-elect has wired the Speaker, has wired the floor leader of the House and distinguished Members of the other body to rush this measure through to its enactment. Why this great anxiety? Is it true, can it possibly be true that in the great political party which has already dominated the affairs of this Nation far too long that only one man can be found who is mentally qualified and fitted for that high position, and that that one is barred by the Constitution of the United States?

Gentlemen declaim eloquently in behalf of so construing the Constitution as to preserve its spirit. The provisions we are now considering need no hairsplitting discriminations in their

constructions. The language is so clear and unambiguous that it yields to but one construction—only one.

The second paragraph of section 6 of Article I of the Constitution of the United States is as follows:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time, etc.

Senator KNOX was elected to the Senate of the United States for a term of six years beginning March 4, 1905, and has been a distinguished Member of that body since that date. His term as a Senator of the State of Pennsylvania will not expire until March 4, 1911, unless he resigns. On the 26th day of February, 1907, the salary of the office of Secretary of State, to which office current report advises us the President-elect desires to appoint Senator KNOX, was increased from $8,000 to $12,000 per annum. The act granting this increase of salary has been in full force and operation nearly two years, and the present incumbent of the office has enjoyed this increase of salary.

The constitutional inhibition is complete, and the country knows, every Member of Congress must know, the very necessity of this legislation proclaims that fact that to-day Senator KNOX is ineligible to the Cabinet office which it is so earnestly desired he shall hold. By the enactment of this measure, we attempt to make him eligible.

Mr. Speaker, I, with all of my colleagues here, stood before that desk with my hand raised aloft and solemnly swore to support the Constitution of the United States. This bill in its incipiency and in its enactment has for its sole purpose the rending and destruction of that instrument. Gentlemen can deceive nobody by it. The country will know, every man here knows and must know that in casting a vote to enact this legislation his purpose is to evade and avoid the plain, unquestioned, unequivocable language of the Constitution. For one, I will not stultify myself to gratify the desires of the President-elect. [Applause on the Democratic side.]

The SPEAKER. The time of the gentleman has expired.

Mr. RUCKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, and in that connection I would also ask that all gentlemen who desire to speak on this question may have five days to extend their remarks in the RECORD on this bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. RUCKER. Now, Mr. Speaker, I yield two minutes to my colleague on the committee, Mr. HACKETT, of North Carolina.

Mr. HACKETT. Mr. Speaker, if we are to consider the bill to reduce the salary of the Secretary of State in the light of what appears on the face of it and not in the light of what is its plain purpose and intent—even then I am opposed to it. I am opposed to reducing the salary of any member of the Cabinet, for it is evident to anyone who has lived in Washington and is acquainted with the social and official duties incumbent upon the occupants of these positions, that a salary of $12,000 a year is not too high. I am opposed to cheap men in high official life. It has been suggested that Senator KNOX, who has been tendered the appointment of Secretary of State by President-elect Taft, and for whose relief the bill under consideration is intended, does not need the salary in order to maintain the social and official dignity of the position. How much more reason why it should not be reduced, because we know not when the time may come that some man preeminently fitted may need it. The greatest intellects and wisest statesmen in the history of our country have not been the men of greatest wealth, and I have seen the evil of fixing salaries so low that we can not command men of greatest ability, probity, and intelligence for positions of highest importance, unless these men are blessed with wealth sufficient to maintain the dignity and fill the social requirements of the respective offices, without regard to the salary attached.

Then, too, do we not stultify ourselves by reducing the salary of the premier of the Cabinet far below that of the members of less dignity and importance, and even that of his first assistant. But, Mr. Speaker, the real question involved in this measure is one of constitutional qualification.

Paragraph 2, section 6, Article I, of the Constitution of the United States provides that—

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office.

Under this constitutional provision it is admitted by all that at present Senator KNOX is disqualified for a Cabinet position.

What disqualifies him? The Constitution.

When did that disqualification attach to him? When the act was passed increasing the salary.

When and how alone could Congress remove that disqualification? By a reconsideration, at the proper time, of the vote by which the salary was raised and an adverse vote on the proposition to raise it under such reconsideration.

That time has passed. Another session has been entered upon and almost ended, and to my mind there is nothing clearer than the fact that the constitutional inhibition having once attached to the person of Senator KNOX or any other individual, and the time for reconsideration of the act which caused it to attach having forever passed away, the only constitutional remedy for his ineligibility is by constitutional amendment, and that can not be made by congressional enactment.

It is argued by the advocates of this measure that we should regard the spirit of the Constitution and the intent of its framers and not the letter, and that the spirit and intent are that no Senator or Representative shall fill a new office created, or one the emoluments of which have been increased, during the term for which he was elected, in order to take away the temptation from Congressmen to create new offices or increase emoluments of those in existence with the hope of afterwards filling them.

There are two inducements to hold public office, the honor and the salary. The rich man desires the honor and cares little for the salary. The poor man, though he be peerless in intellect, patriotism, and statecraft, equally desires the honor, but can not afford to accept it without the salary. If it be reprehensible and contrary to the spirit of the Constitution to increase the salary in order that any poor Senator or Representative might accept the honor of high official position, is it not equally reprehensible to decrease the salary in order that one single individual Senator or Representative whose wealth enables him to disregard the salary might accept the honor?

I know that it is not fashionable at this day and time to proclaim too strict adherence to the fundamental law of the land. However, at the risk of being held unfashionable, I can conceive of no greater truth than is contained in a clause of the constitution of North Carolina, that "Frequent recurrence to fundamental principles is necessary to preserve unto us the blessings of liberty;" and I believe by a stricter adherence alone to the "Old Landmarks" may we hope for the perpetuity of our free institutions. [Applause.]

Mr. HARDWICK. Mr. Speaker, the gentleman from Alabama [Mr. CLAYTON], who opened the debate and favors the bill, is both ingenious and candid in his presentation of the question.

He is ingenious in beginning his argument by calling attention to the fact that no gentleman can base his opposition to the pending measure upon constitutional objections to the Senate bill itself, because everyone must readily concede that Congress has the undoubted power to either increase or decrease the salary of the Secretary of State. The gentleman is not willing, however, to maintain a disingenuous position, so he candidly concedes that the question that is really behind the measure, and from which the motive for its passage springs, is not economy, but an attempt to so modify existing law as to render it possible for the distinguished Senator from Pennsylvania [Mr. KNOX] to accept the high office of Secretary of State in the Cabinet of our incoming President, for which distinguished honor it is authoritatively stated that he has been selected.

Let me say, before I enter into the argument I wish to make, that I have no wish to annoy or embarrass our incoming President, or his administration, particularly with reference to the selection of a Cabinet.

The rules of propriety and good taste would forbid that such a course should be adopted by any member of the opposing party, save upon the most important grounds and for the gravest reasons. Besides, it happens, in this particular matter, that few Members of this body more freely concede and more sincerely admire the great ability of Senator KNOX as a lawyer and as a statesman than I. I believe that he would make a great Secretary of State, and I regret that constitutional objections, as I understand the question, forbid it.

In 1904 Mr. KNOX was elected by the legislature of Pennsylvania to be United States Senator from Pennsylvania for the term beginning March 4, 1905, and ending March 4, 1911. He accepted the office, and from March 4, 1905, up to the present moment has been engaged in the performance of its duties. By the act of February 26, 1907, during the term for which Mr. KNOX was elected Senator, and while he was actually serving as such, Congress increased the salary of the Secretary of State from $8,000 to $12,000 per annum.

Paragraph 2, section 6, Article I, of the Constitution of the United States provides:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time, etc.

Now, on February 26, 1907, "during the time for which" Mr. KNOX was "elected" Senator, the "emoluments" of the office of Secretary of State were increased. So it appears, from the plain words of the Constitution itself, that on February 26, 1907, Mr. KNOX became constitutionally ineligible to appointment as Secretary of State, and that such ineligibility, in the very words of the Constitution itself, continued "during the time for which he was elected" Senator, to wit, up to March 4, 1911. It seems to me that the question is so simple that to merely state it in the very words of the Constitution is all that is required to carry conviction. But able lawyers in the House and elsewhere have either intentionally or unintentionally sought to complicate the question and to muddy the waters by an entirely irrelevant and wholly useless discussion of the "meaning" of this paragraph of the Constitution, the evil it sought to remedy, and the motives that actuated its framers.

No gentleman on this floor, no lawyer here or elsewhere, is better acquainted than I am with the well-settled doctrine that in construing organic law, or statutory law, either for that matter, all of these matters ought to be taken into consideration, under some circumstances, so that the law may be properly understood; but, until the discussion over this bill and the question behind it arose, I never heard of a lawyer of respectable ability, anywhere, seriously contending that reference ought to be made to these sources of information, to these rules of construction, unless the language to be construed is of doubtful meaning or uncertain significance. That this doctrine of construction, sound enough and wise enough when applicable, should first be distorted and then invoked in order to create a doubt where none exists and to afford an opportunity to evade by "construction" constitutional language so plain that it speaks for itself, says what it means, and means what it says is equally shocking to my judgment as a lawyer and my common sense as a man. I do not believe that either lawyer or layman can accept such a doctrine.

Under the Constitution of the United States Senator KNOX is now ineligible to hold the office of Secretary of State, and will be until March 4, 1911, and no act of Congress, and no number of acts of Congress, can remove the constitutional bar which attached to him on the 26th day of February, 1907, when the Congress of which he was a Member, during the term for which he was elected, increased the salary of the Secretary of State.

The constitutional provision in question does not mean, as our opponents in this debate would have the House and the country believe, that no Member of Congress shall be appointed to an office the salary of which is higher at the time of such appointment than it was when his congressional service began. If it had meant that, it would have been a very simple matter to have said just that, and in fewer words than were employed in the provision that was adopted.

But the gentlemen who favor this bill insist that if Senator KNOX does not receive as Secretary of State greater compensation than attached to that office when his term as Senator began the "spirit" of the Constitution will have been complied with. Let us examine this argument for just a moment. Suppose Mr. KNOX becomes Secretary of State, and suppose at some time between March 4, 1909, and March 4, 1911, at which latter date the term for which Mr. KNOX was elected Senator expires, Congress should again increase the compensation of the Secretary of State above $8,000; then who can deny that not only the letter of the Constitution would have been disregarded, but its spirit, even as that "spirit" is understood and defined by the friends of the Senate bill?

If the construction which the friends of this bill contend for is sound, and the status of the salary at the very date of appointment is to be alone considered, how easy it would be to reduce this salary from $12,000 to $8,000 on the 3d day of March, 1909, let Senator KNOX qualify as Secretary of State on the 4th day of March, 1909, and then on the 5th day of March, after he had been appointed and confirmed as Secretary, restore the salary to $12,000. In the event procedure of that kind were had, what would become both of the letter and the "spirit" of the Constitution? And the fact that such procedure is possible under the "construction" contended for by the advocates of this bill is the plainest demonstration of the unsoundness of their contention and the surest warning against the danger of such tampering with the Constitution.

It is my earnest hope that when the President-elect and the distinguished gentleman whom he has selected to head his Cabinet examine into this question carefully, and with the great legal ability for which both of them are so justly distinguished, that, regardless of any action of Congress on this salary matter, neither of them will be willing to signalize the new administration's advent by so patent, so palpable a violation of the Constitution they have sworn to support. It will be most unfortunate if these gentlemen do not rise not only to the proprieties but to the duty of the occasion.

So far as I am concerned, my course in this matter is easy enough. I believe the Constitution says exactly what it means and means precisely what it says. I am convinced that Mr. KNOX will not be eligible to appointment as Secretary of State until March 4, 1911, and that no "enabling act" of Congress can override, repeal, or modify the Constitution so as to make him eligible. I shall not, therefore, lend myself to this scheme to override the Constitution and to disregard its plain, simple, and unambiguous language.

The SPEAKER. The time of the gentleman has expired.

Mr. RUCKER. Mr. Speaker, I yield two minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY of Texas. Mr. Speaker, it is with regret that I feel constrained to oppose the measure manifestly for the relief of the distinguished Senator from the State of Pennsylvania. But I took an oath to support the Constitution of the United States, and my oath does not permit a violation, either by direct or indirect methods. This act is a plain evasion of our constitutional oath.

Mr. Speaker, I am opposed to this bill for three reasons.

First. It is against the express letter of the Constitution. The plain provision is, if the salary of the Secretary of State "shall have been increased" during the six years' term for which Senator KNOX was elected, he can not, under the circumstances here dealt with, hold the office of Secretary of State.

Second. Such act is a palpable violation of the undeniable spirit of the Constitution.

Third. If it were indisputable that we are not violating the letter and spirit of the Constitution, to pass this bill is not wise as a question of policy and is a breach of all appropriate ethics that should control us in this emergency. It is utterly repugnant to my conception of the proprieties that ought to guide and determine our conclusions on this occasion. It is true on its face the act is a simple proposition to reduce the salary of the Secretary of State from $12,000 per annum, at which sum it was fixed March 4, 1907, to $8,000. But it would be an unpardonable and cowardly evasion to say that nothing else is involved.

In 1905 Senator KNOX was elected to the United States Senate for a term of six years, ending March 4, 1911. During this time the Fifty-ninth Congress, of which he was a Member, increased the salary of the Secretary of State from $8,000 to $12,000 per annum. By the Constitution, Article I, section 6, Senator KNOX, who is proposed by Mr. Taft for Secretary of State for the term beginning March 4, 1909, is disqualified. The material part of the article and section is as follows:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created or the emoluments whereof shall have been increased during such time.

Here we have a constitutional clause, and an act of Congress increasing the salary of an office to be filled by Senator KNOX during the term for which he was elected to serve as United States Senator. It is manifest to me that Senator KNOX is disqualified by the Constitution and not by the act of Congress. Nor can another act of Congress decreasing the salary of the Secretary of State qualify him, once he is disqualified by constitutional provision. We can not nullify a patent constitutional disqualification by a trick of legal legerdemain. Was the salary of the Secretary of State increased during Senator KNOX's six-year term in the Senate? It can not be denied. The Constitution makers unmistakably wrote in this article that when the emoluments "shall have been increased" during his term in Congress, a constitutional bar is raised against appointment of such Senator or Member until the congressional term becomes extinct. It will not do to say that the salary of Secretary of State has not been "increased" because this act "decreases" it and it then becomes as if it had never been.

The fact forever remains that such salary has been both "increased" and "decreased." You can not reverse this fact by reason of interpretation or legal enactment. You might, with the same consistency of logic, undertake to legislate that war with Mexico was not a fact in our history, but a mere dream;

that Niagara Falls does not stand between the boundaries of this country and Canada; that Yellowstone Park is a myth; the forest of big trees in California a figment of the imagination, and the historic truth of the tragic deaths of Lincoln, Garfield, and McKinley the idle vaporings of newspaper correspondents. Ah, Mr. Speaker, physical and historic facts are immutable, and no legislative action can eradicate or destroy them. The salary has been increased, and no decreasing act can make the established fact disappear, but only establishes another fact—a decreased salary by Congress. In my judgment, without meaning to be critical, if Mr. Taft and Senator KNOX had heeded the voice of wisdom when this question arose, instead of rushing it through Congress with the powerful force of Senatorial courtesy and the strong machine of the House Committee on Rules, they would have hesitated and deliberated and said, "Let this great question go to the law committees—the Committees on the Judiciary—of the two Houses, where it could be weighed, considered, and analyzed from every standpoint." Then, if favorable report had been made to Congress, the American people would have concurred with certain approval. If not, a taint of doubt being left in the proposition, they would have said, and so would the people, "Let this class legislation and special favoritism for the accommodation of one man become no part of our legislative annals."

If ever a question deserved treatment in decency and order it is this one where some of us fear we might be violating our oath of office. But you will perpetrate the act, and let me prophecy that Mr. Taft and Senator KNOX, before the 4th of March, will come to the conclusion that this is of such doubtful constitutional warrant and propriety they can not afford to avail themselves of its special favoritism and convenience.

There is one other question I desire to raise. At this session of Congress the Senate, of which Senator KNOX is now a Member, proposes to raise the salary of the President, and has already taken action to that effect. In my judgment, your party will yet ratify such Senate action in both Houses of Congress. Then Senator KNOX, being Secretary of State under Mr. Taft, will be in line for the Presidency in the event of the death of the President and Vice-President. In such an emergency he would be ineligible to the Presidency and would be laboring under a double constitutional disqualification on account of the raise of salary of the Secretary of State and of the President. In my mind it is unwise and not sound policy to pass this act and open the way to difficulties and at the same time bend and break the organic law of our Republic. No man is so great and good that it should be done. With regret, but with unwavering firmness, I shall record my vote against it.

Mr. Speaker, I have said the proposed action here not only violates the express language of the Constitution, but the spirit and intent as well, and I shall now attempt to demonstrate my statement by historic reference.

You may search the history of the proceedings of the Philadelphia convention of 1787 and you will find nothing authorizing the construction put forth by those maintaining the affirmative of this proposition. There is no hint that the spirit pervading the Constitutional Convention warranted holding that where a salary had been increased and a constitutional disqualification fixed on a Senator or a Member it might then be undone and reversed by a bit of legal juggling such as this. There is no suggestion of such pathway out of the difficulty. That language, "shall have been increased," stands forth boldly to reveal its meaning as does the sunshine by day to herald the fact that the night is over and the stars obscured. At the first point in the proceedings of the Constitutional Convention when this question becomes material we find, on June 26, 1787, Mr. Williamson moved a resolution so penned as to admit of the following question:

First. Whether the Members of the Senate should be ineligible to, and incapable of holding, offices under the United States; secondly, whether, etc., under the particular States.

Mr. Gerry and Mr. Madison moved to add to Mr. Williamson's first question "and for one year thereafter." This was carried.

To the first question in Mr. Williamson's resolution, "ineligible to and incapable," and so forth, there was unanimous agreement, and it was adopted. Then these propositions, along with others, were referred to a committee on detail on July 26, and are to be found numbered 4 in a series of resolutions.

The language here used is as follows:

That the Members of the second branch of the Legislature of the United States ought to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter.

On August 6 the Committee on Detail made a report, and in it is found the following provision, embodied in section 9:

The Members of each House shall be ineligible to, and incapable of holding, any office under the authority of the United States during the time for which they shall respectively be elected; and the Members of the Senate shall be ineligible to, and incapable of holding, any such office for one year afterwards.

Here the committee emphasized the ineligibility of Senators and discriminated against them, so anxious were the fathers to guard the point by extending the period of ineligibility "for one year" after their terms expired, thus failing to apply that disqualification to Representatives, and evincing an indisputable spirit to shield the Senate and Executive from the influences that one might exert upon the other and unequivocally separating these two departments from one another by rendering them distinct and independent.

Mr. Speaker, I challenge attention to the "spirit" here made manifest and emphatic. There is no hint that we may trifle and juggle with Cabinet offices and emoluments thereof, but a plain suggestion and injunction that the Senate must hold itself aloof from executive functions and favors and not seek ways to get into the Cabient when the Constitution interdicts. It is not meant that Senator KNOX is endeavoring to do this, but simply pointed out that the framers of the Constitution intended by letter and spirit that no Senator should ever surmount this obstacle in any kind of fashion, with or without the aid of Congress. Nor will chloroforming this section of the Constitution to-day appeal to or satisfy those who still regard its provisions with patriotic reverence.

The next glimpse of this section of the Constitution is on September 1, when Mr. Brearly, to whose committee were referred certain postponed parts of the Constitution, made partial report in this language:

The Members of each House shall be ineligible to any civil office under the authority of the United States during the time for which they shall respectively be elected; and no person holding an office under the United States shall be a Member of either House during his continuance in office.

It is peculiarly appropriate here to quote the exact language and reasoning of some of the delegates to the Philadelphia convention on this identical point.

Mr. Sherman was "for entirely incapacitating Members of the Legislature." He thought "their eligibility to office would give too much influence to the Executive." He said:

The incapacity ought at least to be extended to cases where salaries would be increased, as well as created, during the term of the Member.

He mentioned also the expedient by which the restriction could be evaded, to wit:

An existing officer might be translated to an office created, and a Member of the Legislature be then put into the office vacated.

Mr. Randolph was "inflexibly against inviting men into the legislature by the prospect of being appointed to offices."

Here is what the great Virginian, George Mason, thought:

Instead of excluding merit, the ineligibility will keep out corruption by excluding office hunters.

On September 1 Mr. Williamson moved to insert the words "created or the emoluments whereof shall have been increased" before the word "during" in the report of the committee. This amendment was adopted. Hence, it is clear to my mind if our fathers, in writing the Constitution, enjoined upon us that we, as Senators or Members, should not benefit by the offices we created or by the increased emoluments thereof, they also, by the same letter and spirit, enjoined upon us that we should not benefit a Senator, as in the case under consideration, by legal legerdemain in attempting to obviate, by statute, a constitutional infirmity for the purpose of advancing his official station in removing an obstacle standing in his pathway from the Senate to a Cabinet office, where our fathers fixed constitutional barriers to forever remain.

Where are the letter and spirit? They remain where the writers of our Constitution placed them, as sentinels to give the alarm in such emergencies as this, when our eagerness to favor a distinguished man and new administration are about to outrun our judgments. We are importuned to bend a little, to lean only slightly to error, in order that we may do an act of kindness and convenience.

It must not be; there is no power in Venice
Can alter a decree established:
'Twill be recorded for a precedent;
And many an error, by the same example,
Will rush into the state: it can not be.

Mr. Speaker, when the committee on style finally reported the Constitution, the material part of this article and section appeared as follows, and became part of the permanent document:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time.

Mr. Speaker, I reiterate, with all due respect to those whose views are different, that the letter, the spirit, and the proprieties cry out against this evasion and subterfuge.

Entertaining a high regard for the distinguished Senator and wishing Mr. Taft's administration preeminent success, I must halt and do reverence to my constitutional oath as I see it, and meet the question with fair and honorable intent by considering all the known and notorious facts, and in so doing my conscience impels me to vote against the expedient here offered. Our forefathers wrote the Constitution in order that their posterity might be governed by written guaranty of liberty and republican institutions perpetuated, that we might look to and invoke it in hours of trial and peril. Mr. Speaker, that ancient document is not yet obsolete; we have not yet outgrown its sacred provisions; there is not yet need of shutting our eyes and blindly trampling under foot any part of the safeguards it contains. If liberty is to survive and constitutional government to find lodgment in permanent history, sacred reverence for the genius and spirit and letter of this beloved instrument alone will perpetuate them. For my part, I am not willing to disregard historic fact and constitutional guaranty for any man or party in the Republic. [Prolonged applause.]

Mr. RUCKER. Mr. Speaker, I yield two minutes to the gentleman from North Carolina [Mr. WEBB].

Mr. WEBB. Mr. Speaker, in discussing this important question no lawyer who cares for his reputation will approach it from a partisan standpoint, but give it serious and conscientious consideration. No man's political affiliations should color his understanding of the meaning of our great charter, the organic law upon which our magnificent Government is built. The bill before us might well be styled "A bill for the relief of Senator KNOX." I want to say before proceeding further that I wish sincerely that I might aid Mr. Taft in gratifying his desire to have Mr. KNOX's disqualification for the portfolio of Secretary of State removed, but I am compelled to look at the great question in the light of the law, assisted by well-established rules of construction and interpretation.

The term of Senator KNOX began March 4, 1905, and will therefore end until March 3, 1911. On February 26, 1907, the salary of the office of Secretary of State, to which Mr. Taft wishes to appoint Mr. KNOX, was increased from $8,000 to $12,000 per annum. It is claimed that Senator KNOX voted for this increase, but this is immaterial. The act has been in effect, therefore, for the last two years. The bill now seeks to reduce the salary back to $8,000, in order to relieve Mr. KNOX of the inhibition contained in Article I, section 6, clause 2, of the Constitution, which reads as follows:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time.

Now, suppose this bill becomes a law, will the Senator be eligible to appointment in Mr. Taft's Cabinet, prior to March 4, 1911? I am compelled to say that in my humble opinion he will not be. I have studied the question with great care and have examined every report and decision that bears on the question in the least. The Constitution must be given its plain meaning. Note the language of Judge Lamar in Lake County *v.* Rollins (130 U. S. Reports):

> If the words convey a definite meaning which involves no absurdity, nor any contradiction of other parts of the instrument, then that meaning, apparent on the face of the instrument must be accepted, and neither the courts nor the legislature have the right to add or to take from it. (Newell *v.* People, 7 N. Y., 9, 97; Hill *v.* Chicago, 60 Ill., 86; Denn *v.* Reid, 10 Pet., 524; Leonard *v.* Wiseman, 31 Md., 201, 204; People *v.* Potter, 47 N. Y., 375; Cooley, Const. Lim., 57; Story on Const., 400; Beardstown *v.* Virginia, 76 Ill., 34.) See also, where a law is expressed in plain and unambiguous terms, whether those terms are general or limited, the legislation should be intended to mean what they have plainly expressed, and consequently no room is left for construction. (United States *v.* Fisher, 2 Cranch, 358, 399; Doggett *v.* Florida Railroad, 99 U. S., 72.)
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> There is even stronger reason for adhering to this rule in the case of a constitution than in that of a statute, since the latter is passed by a deliberative body of small numbers, a large proportion of whose members are more or less conversant with the niceties of construction and discrimination and fuller opportunity exists for attention and revision of such a character, while constitutions, although framed by conventions, are yet created by the votes of the entire body of electors in a State, the most of whom are little disposed, even if they were able, to engage in such refinements. The simplest and most obvious interpretation of a constitution, if in itself sensible, is the most likely to be that meant by the people in its adoption. Such considerations give weight to that line of remark of which The People *v.* Purdy (2 Hill, 31, 36) affords an example. There Bronson, J., commenting upon the danger of departing from the import and meaning of the language used to express the intent, and hunting after probable meanings not clearly embraced in that language, says: "In this way the Constitution is made to mean one thing by one man and something else by another, until in the end it is in danger of being rendered a mere dead letter, and that, too, where the language is so plain and explicit that it is impossible to make it mean more than one thing unless we lose sight of the instrument itself and roam at large in the boundless fields of speculation."
>
> Words are common signs that mankind use to declare their intentions to one another; and when the words of a man express his meaning clearly, distinctly, and perfectly, we have no occasion to have recourse to any other means of interpretation.

Mr. Speaker, it is clear to even a layman as to what the clause in the Constitution says and means. No technical language is used. No words of doubtful meanings are there. No ambiguous or uncertain thought is expressed. If the emoluments of any office have been increased during a Senator's term, he can not be appointed to that office until his term has expired. To know that the sun shines at midday we have but to look up into the heavens and see it. It is hard to use an argument that it is shining when one has but to look and see it; so it is hard to argue a question which seems so clear as that clause of the Constitution under discussion. The moment the emoluments of the office are increased by law, that moment the lawmaker's ineligibility to fill the office sets up, and must continue to the end of his term. It is not the law increasing the emoluments that disqualifies him to be appointed to such office, but it is the Constitution; and being once disqualified by that instrument the disqualification can not be removed by mere legislative enactment.

Senator KNOX is unquestionably disqualified now, and has been for the past two years. No one denies this. What disqualified him? Was it the statute or the Constitution? The question answers itself, and one has but to read the clause in question to answer that it is the Constitution which created the disqualification. Then, if he is now constitutionally disqualified, how can the Congress qualify him by passing this bill? When the act of February 26, 1907, became a law eo instanti Mr. KNOX became disqualified to hold the office of Secretary of State and has remained disqualified ever since. His disqualification, as I have said, is not statutory, but constitutional; and, having once attached, can not be remedied by legislative enactment. Everyone admits that unless this bill passes he is clearly disqualified by the Constitution; and if so disqualified, how can Congress qualify him by passing this bill? The law increasing the salary of the office of Secretary of State was enacted in the Fifty-ninth Congress, and the Secretary of State has been drawing the larger salary since that time.

So the act which enabled the Constitution to disqualify Mr. KNOX is not in fieri, but is a completed, accomplished fact, and the Constitution effected the disqualification the instant the bill became a law.

If the passing of the bill before us to-day will now qualify Mr. KNOX for the high position of Secretary of State, why could not he have been appointed to this office February 27, 1907, and have served as such until some one should have raised the point, and, the point being raised, then Congress could have reduced his salary to $8,000, and all would be well? Does anyone claim that his occupancy of the office under these circumstances and his appointment to such office would have been legal? I take it that no one would claim such. If not, how could the repeal of the statute making the increase in salary make the original appointment now legal? Shall we argue that for the past two years he has been clearly disqualified, but during the next two years he will be qualified, and yet no change take place in the Constitution? That would be tantamount to saying that it is the statute which first disqualifies and then qualifies a person for such office, without regard to the Constitution. We all know that it is the Constitution which, upon the happenings of a certain event, attaches irrevocably the disqualification, and then such disqualification can not be affected by any statutory retraction or amendment. The thing being once done can not be undone except by amendment to the Constitution. A constitutional disability having once attached, can not be removed by legislation.

The people and Mr. KNOX can not be placed in statu quo by passing this bill. The object of the clause of the Constitution in question was, according to that great judge, Story:

> To take away, as far as possible, any improper bias, in the vote of the Representative and to secure to the constituents some solemn pledge of disinterestedness.

The repeal of the law increasing the salary at this time, two years after its enactment, can not affect the motives or the interests or noninterest of the Senator at the time the bill was passed. We can not know, nor can we inquire, nor does it matter, what a Senator's motives were in voting for an increase of the emoluments or the creation of a new office, and therefore the fathers, when they framed the Constitution, pronounced in that instrument the irrebuttable disqualification the moment the offending event happens.

Suppose the Constitution should declare in plain terms that no person convicted of forgery should ever hold office, and suppose A should be convicted, but two years after his conviction

the legislature should repeal the law against forgery, could A ever hold office? I do not think so. The repeal of the statute, the violation of which caused the constitutional disqualification to attach, could not remove that disqualification; nor can the repeal of the statute, the passage of which caused the constitutional disqualification to attach to Mr. KNOX, remove his disqualification.

The case of Hill *v.* The Territory of Washington (2 Washington Reports) seems to be a case almost in point. It was against the law of the Territory for any officer of the Regular Army to be elected to any civil office. Hill was a retired member of the army and was elected treasurer in 1880 of King County. Suit was instituted to oust Hill from his office. The legislature of the Territory, however, in 1881 repealed the disqualifying statute. In a well-considered opinion the court says:

> Again, at the time of the election of the defendant to said office he was, if he belonged to the Army of the United States, ineligible thereto by the laws of the Territory; hence all votes cast for him were of no effect, and the declaration of his election could confer no rights upon him; and, if all laws that rendered him so ineligible were afterwards repealed, such repeal could not in itself validate such election and confer upon him the right to hold said office until he had been legally elected or appointed thereto.

The case of Senator Ransom from my own State shows how strictly the law officers of the Government have construed this important clause of the Constitution. General Ransom's term as Senator from North Carolina began March 4, 1889, and ended March 4, 1895. In March, 1891, the compensation of the minister to Mexico was increased from $12,000 to $17,500 per annum. On February 23, 1895, ten days before the Senator's term expired, he was appointed and confirmed minister to Mexico, and on the 4th of March following took the oath of office. The Attorney-General was called upon for an opinion as to the legality of the appointment, and it was held in a clear opinion that the appointment was illegal. In passing on this case, the Attorney-General, among other things, said:

> The case in hand, however, is governed by the other prohibition, which is against the appointment to any civil office under the United States the emoluments whereof have been increased during the time for which he was elected.
>
> Here, plainly, the prohibition is not against the holding, but the appointment. * * *
>
> He (the President) can appoint only those who, under the Constitution, are eligible to the office. His appointment of one not eligible is a nullity.

The Auditor for the State and other Departments, in discussing General Ransom's case, said:

> The Constitution of the United States provides by the second clause, section 6, Article I, that "No Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time." The language is plain and unmistakable, and in view of the fact that the salary of the envoy extraordinary and minister plenipotentiary to Mexico was increased during Mr. Ransom's term in the Senate, he was constitutionally ineligible for appointment to the office during that term.

The decision of the Attorney-General in the case of Governor Kirkwood is one of the strongest against the eligibility of Senator KNOX that has been rendered. Governor Kirkwood was elected Senator from Iowa, his term beginning March 4, 1877, and expiring March 4, 1883. In 1881 he resigned as Senator to accept the position of Secretary of the Interior. In that same year—1881—he resigned as Secretary of the Interior and became a private citizen. While he was such private citizen and while his successor was serving as Senator from Iowa, but before Governor Kirkwood's term of office had expired—it being March, 1882—the office of Tariff Commissioner was created by Congress, and President Harrison wished to appoint Mr. Kirkwood to this office. The Attorney-General, who was called upon for an opinion in the case, after citing Article I, section 6, clause 2, of the Constitution, says:

> It is unnecessary to consider the question of the policy which occasioned such constitutional prohibition. I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and, in my opinion, disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I can not go, but must accept it as presented regarding the application in this case. Among the decisions of the state courts four cases only were found in which a like constitutional prohibition has been considered. They are not directly in point here, and I can obtain no help from them to avoid the conclusion I have before expressed. They maintain in effect the same principle and adopt the same rule of interpretation which, I here submit, disables Governor Kirkwood from receiving the appointment.

Mr. Speaker, I therefore am opposed to the passage of this bill, for the reason that we all know it is for the purpose of attempting to make Senator KNOX eligible to be appointed Secretary of State by Mr. Taft, and for the further reason that, in my opinion, whether the bill is passed or not, he will not be eligible to receive the appointment before his term as Senator from Pennsylvania expires, which will not be until March 4, 1911.

I can not give assent to the doctrine that public and temporary expediency would excuse a breach, however slight, of the Constitution; nor can I agree that it is permissible to violate any provision of that great charter, even though no harm apparently may flow from such violation. Its every article is sacred and should be jealously guarded by all sincere lovers of constitutional government, and we should never permit its slightest violation, even though such violation should bring about a condition personally pleasant and answer a popular demand.

It is far better for the country to be deprived of the eminent services of Senator KNOX as Secretary of State for two years longer than to fracture our paramount law upon which the entire future of the Republic depends. [Applause.]

APPENDIX.

21 Wisconsin Reports, State ex rel. Ryan *v.* Boyd, page 212:

"Mr. Justice Story, in commenting upon a kindred provision in the Constitution of the United States, says: 'The reasons for excluding persons from offices who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the Representative and to secure to the constituents some solemn pledge of his disinterestedness. The actual provision, however, does not go to the extent of the principle; for his appointment is restricted only during the time for which he was elected, thus leaving in full force every influence upon his mind, if the period of his election is short, or the duration of it is approaching its natural termination.' (Story's Com. on Const., p. 684.) The learned author adds, that while it has sometimes been a matter of regret that the disqualification has not been made coextensive with the supposed mischief, and thus have forever excluded Members from the possession of offices created or rendered more lucrative by themselves, yet that perhaps there is quite as much wisdom in leaving the provision where it now is."

Volume II, Decisions of the Comptroller, pages 129 and 130, in re of accounts of Hon. Matt Ransom, for compensation as envoy extraordinary and minister plenipotentiary to Mexico:

"A Senator of the United States is prohibited by section 6, Article I, of the Constitution, during the time for which he was elected, from being appointed to any civil office the emoluments of which have been increased during such time.

"R., a Senator of the United States, elected for a term of six years, to expire March 3, 1895, during which time the salary of the office of minister to Mexico was increased, was on February 23, 1895, nominated to that office, confirmed by the Senate, and commissioned by the Presdient. He took the oath of office on March 5. Such appointment was prohibited by section 6, Article I, of the Constitution, and R.'s salary can not be paid."

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
September 6, 1895.

The Auditor for the State and other Departments having, under date of July 13, 1895, made an original construction of the following clause in the diplomatic and consular appropriation act of March 2, 1895 (28 Stat., 815)—

"Envoys extraordinary and ministers plenipotentiary to Russia and Mexico, at $17,500 each, $35,000;"

transmitted his decision thereon to the Comptroller for his approval, disapproval, or modification. Said decision is as follows:

"Mr. Ransom has presented accounts for salary as envoy extraordinary and minister plenipotentiary to Mexico, covering the time from and including March 4 to and including June 30 ultimo.

"It becomes my duty as the accounting officer to whom the accounts are assigned for audit and settlement to decide whether or not Mr. Ransom is entitled to the compensation which he claims.

"Mr. Ransom was a Senator from the State of North Carolina for the term beginning March 4, 1889, and ending March 3, 1895. During the said term the salary of the envoy extraordinary and minister plenipotentiary to Mexico was increased by Congress from $12,000 per annum to $17,500 per annum by act making appropriations for consular and diplomatic services, approved March 3, 1891. (26 Stat., 1053.) Congress has since continued to appropriate the latter sum, and at that rate salary is claimed by Mr. Ransom.

"The Constitution of the United States provides by the second clause of section 6, Article I, that 'No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time.' The language is plain and unmistakable, and in view of the fact that the salary of the envoy extraordinary and minister plenipotentiary was increased during Mr. Ransom's term in the Senate, he was constitutionally ineligible for appointment to that office during that term. In the words of Attorney-General Brewster (17 Opinion A. G., 365): 'It is necessary to consider the question of the policy which occasioned this constitutional prohibition. I must be controlled exclusively by the positive terms of the provisions of the Constitution. The language is precise and clear, and, in my opinion, disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I can not go, but must accept it as presented regarding its application in this case.'"

On page 208, same volume, Decisions of the Comptroller:

"Mr. Ransom was, until the expiration of Congress on March 3, a Senator of the United States from the State of North Carolina, his term expiring on that date. On March 3, 1891, the compensation of the minister to Mexico was increased from $12,000 to $17,500 per annum, and has continued at the latter figure from that time to and including the present fiscal year. When the act increasing the salary of the minister to Mexico was passed Mr. Ransom was a Member of the Senate. The fact that the salary of the minister to Mexico was increased while Mr. Ransom was a Senator was overlooked both by the President and the Senate on February 23, when he was nominated and confirmed, and was not discovered until some time after Mr. Ransom had been appointed, qualified, and acted as the minister to Mexico. For the reasons stated by the Attorney-General in his opinion of August 15, 1895 (21 Opin. A. G., —), the appointment of Mr. Ransom under the circumstances was illegal, as in violation of paragraph 2, section 6, of Article I of the Constitution."

On page 211, volume 21, Opinions by Attorneys-General, we have the following by Hon. Holmes Conrad, Acting Attorney-General under Hon. Judson Harmon, of Ohio:

MEMBER OF CONGRESS; * * * APPOINTMENT TO OFFICE.

"During the term of R., as a Senator of the United States, Congress increased the salary attached to a civil office under the authority of the United States. On February 23, 1895, the President nominated R. (whose term would not expire until March 4, 1895) to the office in question, and on the same day such nomination was confirmed by the Senate. R. took the oath of office on March 4, 1895, and his commission was delivered to him the following day. Held, 1, the nomination by the President and the confirmation by the Senate constituted the appointment to the office in question; and,

"2. Such appointment was a nullity, because in conflict with paragraph 2, section 6, Article I of the Constitution, which prohibits the appointment of a Member of Congress during the term for which he was elected to an office the emoluments whereof shall have been increased during such time."

Matthew W. Ransom was the United States Senator from the State of North Carolina for the term beginning March 4, 1889. During the said term the salary of envoy extraordinary and minister plenipotentiary to Mexico was increased from $12,000 per annum to $17,500 per annum by act of Congress, approved March 3, 1891, making appropriations for the diplomatic and consular service. (26 Stat., 1053.) Congress has since continued to appropriate the latter sum. On February 23, 1895, Mr. Ransom was nominated by the President as envoy extraordinary and minister plenipotentiary to Mexico, and the nomination was confirmed the same day. The commission bears date of February 23. According to the statement of the President and his private secretary, Mr. Thurber, the commission was signed March 5. Mr. Ransom took the oath of office March 4, after the senatorial term had expired, and his commission was delivered to him the following day."

The occasion of your request for my opinion as to the duty of the Department of State in the premises appears to be a decision of the Auditor for the State and other Departments, holding that Mr. Ransom is not entitled to salary as envoy extraordinary and minister plenipotentiary to Mexico because of the constitutional provision of section 6 of Article I of the Federal Constitution.

Paragraph 2, section 6, Article I, of the Constitution is as follows:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office."

Here is contained a prohibition against the appointment to office of Senators and Representatives, and also a prohibition against one holding an office from being a Member of either House of Congress.

It has been repeatedly held that the acceptance of any office under the United States by a Member of either House of Congress operates a vacation of his seat. He is disabled by the Constitution from holding an office while a Member of either House.

The case in hand, however, is governed by the other prohibition, which is against the appointment to any civil office under the authority of the United States the emoluments whereof have been increased during the time for which he was elected.

Here plainly the prohibition is not against the holding, but against the appointment. * * *

He (the President) can appoint, however, only those who, under the Constitution, are eligible to office. His appointment of one not eligible is a nullity.

One who was a Senator or Representative during the time in which the emoluments of any civil office under the authority of the United States were increased is ineligible to such office.

Judge Story says:

"The reasons for excluding persons from offices who have been concerned in creating them or increasing their emoluments are to take away, as far as possible, any improper bias in the vote of the Representative and to secure to the constituents some solemn pledge of his disinterestedness. * * *"

I am of the opinion, then, that Mr. Ransom's appointment as envoy extraordinary and minister plenipotentiary to Mexico was made on February 23, 1895; that that was during the time for which he was elected a Senator in Congress; and it appearing from your letter that it was during that time that the emoluments of the office of minister to Mexico were increased, Mr. Ransom was ineligible to appointment to that office.

HOLMES CONRAD,
Acting Attorney-General.

On page 365, volume 17, Opinions of Attorneys-General, we find the following by Hon. William Harrison Brewster:

APPOINTMENT TO CIVIL OFFICE.

K. was elected and qualified as Senator from Iowa for a term which would expire March 4, 1883. He resigned in March, 1881, to accept the position of Secretary of the Interior, which office he also resigned in the latter part of the same year. Since then, by act of May 15, 1882, chapter 145, the office of tariff commissioner was created. *Advised* that the second clause of section 6, of the first article of the Constitution disqualifies K. for appointment to such office.

DEPARTMENT OF JUSTICE, *May 26, 1882.*

SIR: It having been suggested that Governor Kirkwood might not be eligible to be appointed on the tariff commission under certain provisions of the Constitution, after conference at the Cabinet the matter was referred by you to me for examination. Knowing that it was your desire to appoint Governor Kirkwood, as it was also the hope of all the members of the Cabinet that he would be appointed, I have given the subject presented to me a serious consideration and a thorough examination, in conjunction with the Solicitor-General, whose assistance I invited in conference upon the subject. The opinion that I now give is the product of that joint examination.

The Solicitor-General has deposited with me in my department a written opinion concurring with me.

Mr. Kirkwood was elected and qualified as Senator from Iowa for a term which would expire in March, 1883. In March, 1881, he resigned to accept the position of Secretary of the Interior, and, having recently resigned that office, is now in private life. Since his second resignation the office of tariff commissioner has been created by act of Congress, and the question is, whether, in those circumstances, the second clause in the first article, section 6, of the Constitution of the United States, disqualifies him for appointment as such commissioner. The clause is as follows:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office."

It is unnecessary to consider the question of the policy which occasioned such constitutional prohibition. I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and in my opinion disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I can not go, but must accept it as it is presented, regarding its application in this case. I caused careful search through the opinions of the Attorneys-General for precedent upon this question, but none has been found. No opinion is recorded in which the subject is considered. Neither is any record of published cases in the courts of the United States that touch upon this point. Among the decisions of the state courts, four cases only were found in which a like constitutional prohibition has been considered. They are not directly in point here, and I can obtain no help from them to avoid the conclusion I have before expressed. They maintain in effect the same principle and adopt the same rule of interpretation, which, I here submit, disables Governor Kirkwood from receiving this appointment.

I am, sir, with great respect,

BENJAMIN HARRISON BREWSTER.

THE PRESIDENT.

In volume 2, Washington Territory Reports, on page 147, George D. Hill, plaintiff in error, *v.* The Territory of Washington, ex rel. Elwood Evans, prosecuting attorney, etc., defendant in error:

"The election of a person to office in this Territory who, by reason of belonging to the Army of the United States at the time of his election, was ineligible thereto, is not rendered valid by a repeal of the statute so disqualifying him.

"Capt. George D. Hill, plaintiff in error, was, prior to December, 1870, an officer of the Regular Army of the United States, at which time he was placed on the retired list with the rank of captain.

"Subsequently he was for a number of terms elected treasurer of King County, Wash.

"He was reelected at the general November election of 1880 and entered upon the duties of the office under this election."

Opinion by Hoyt, associate justice, page 149:

"By the pleading in this cause it was admitted that the plaintiff in error, the defendant below, was declared elected to the office of treasurer of King County in November, 1880, and that in pursuance to such declaration he entered into and took possession of said office and entered upon the discharge of the duties thereof, and that he is still so in possession of said office.

"It was also admitted that at the time of said election said defendant was, and still is, an officer upon the retired list of the United States Army. And the question decided below, and to be decided here, is as to whether under the facts so admitted judgment of ouster should be entered against said defendant. * * *

"It is virtually conceded by the argument upon this point that under the law of the Territory, as it stood prior to the amendment thereto in 1881, the Territory would have been the proper party plaintiff; but it is contended that the action of the legislature in so amending said law that it was no longer a violation thereof for an officer on the retired list to hold such office had so changed the relation of the Territory that it no longer had any interest in the question; as if the laws of the United States only were being violated, they and not the Territory were the proper party plaintiffs.

"But if we concede the entire argument of the defendant upon this question, it would not then appear that said amendment could have any effect upon this cause, for this action was commenced before said amendment was made, and the rights of the parties, as they existed before the enactment of said amendment, were protected by the provisions of the act which contained said amendment. * * * Again, at the time of the election of the defendant to said office, he was, if he belonged to the army of the United States, ineligible thereto by the laws of the Territory; hence all votes cast for him were of no effect, and the declaration of his election could confer no rights upon him; and if all laws that rendered him so ineligible were afterwards repealed, such repeal could not in itself validate such election and confer upon him the right to hold said office until he had been legally elected or appointed thereto."

Mr. BOOHER. Mr. Speaker, the legislation proposed by the measure now under discussion finds no parallel in the legislative history of the country. It seems to me, after a careful consideration of the bill and its purposes, that we are embarked on a very dangerous voyage, one beset with dangers and pitfalls that will, if this bill becomes a law, establish a precedent that will be far more honored in its breach than in its observance.

The bill might well be entitled "A bill to relieve an embarrassing political situation." There is a brave and manly way open for the relief here sought, and that path should be pursued. Congress should not undertake, by indirection, to relieve a situation that is so easily remedied by the interested parties themselves.

The advocates of this bill inform the House that this legislation is necessary to enable Mr. KNOX to become Secretary of State in the Cabinet of the incoming President. All are agreed that under the plain provision of the Constitution he is not eligible, and we are asked in our capacity as lawmakers, to render him eligible by doubtful legislation:

No Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such term. * * *

This provision was written in the Constitution for a wise and beneficent purpose, and for the first time in our history we

propose to join in violation of not only the spirit of this provision, but the letter of it as well.

There can be no question as to the wisdom of this constitutional enactment, and a strict compliance with its every provision can but have a tendency to uplift our national life.

The question for us to settle is, "Does the paragraph of the Constitution quoted render Mr. KNOX ineligible to the office of Secretary of State; if so, will this legislation make him eligible?" That must depend upon the language used.

What is meant by the words "or the emoluments whereof shall have been increased during such term?" The salary of this office has been raised from $8,000 to $12,000 per year during the prohibited time. The present Secretary of State and his immediate predecessor have both enjoyed their increase in the salary. Can we say, therefore, by any reasonable rule of construction that the emoluments have not been increased? They have been increased, and now, in order to make eligible one who is now ineligible by reason of the increase, we propose to reduce the salary to what it originally was; but the fact remains that it has been increased during the prohibited time, and in my judgment this indirect method of legislation will not remove the disqualificaton now existing. If we can not remove this disqualification by direct legislation, no one will seriously urge that we can do indirectly that which can not be done directly.

Behold the spectacle that will present itself to the American people by the passage of this act. The head of the Cabinet, the chief adviser of the President, serving for $4,000 a year less compensation than the other members of the Cabinet. This subterfuge will not deceive anyone except those who support the proposition. I venture the prediction that before the prohibited term expires the salary of this office will be restored, when the humiliating confession must be made that Congress trifled with a principle to meet an emergency.

It is not contended that the President-elect and Mr. KNOX did not know of this provision of the Constitution. In addition to the presumption indulged in that every man knows the law, we have the assurance that both of them are among the greatest, if not the greatest, constitutional lawyers in public life to-day.

The strongest arguments used by the advocates of this measure is that the President-elect wants the law passed, and that it should be done this session.

I am willing to do what I may to make the incoming administration successful, but am not willing to violate the oath I have taken to support the Constitution for the personal convenience of anyone. Each of us is the keeper of his own conscience and must answer to himself and the people in what manner he has kept it. This measure is but an expedient to evade the plain provisions of the Constitution. I do not assert that this bill will be unconstitutional, but my contention is that it will not remove the disqualification of Mr. KNOX. The inhibition of the Constitution was put in force when the emoluments of the office were increased during his term in the Senate, and that prohibition will remain in spite of this legislation.

I do not doubt or question the superior ability and attainments of Mr. KNOX to fill this great office acceptably, but I maintain that this House can not afford to engage in this indirect method of legislation.

I have said that there is a brave and manly path out of this dilemma, and it should be pursued.

Let me call the attention of the House to the fact that this is not the first time in the country's history that a provision of the law has been overlooked by the President in making up his Cabinet. President Grant, as I now recall, during his first administration sent to the Senate for confirmation the name of the most successful business man of his day for Secretary of the Treasury. It was pointed out to President Grant that under the law his choice for this important office was ineligible. There was no subterfuge resorted to in this instance; no request for the enactment of legislation of doubtful efficiency; no demand for the repeal of the obnoxious provision, that he might have his personal friend in the Cabinet. On the contrary, he took the brave and manly way out of the embarrassing situation, respected the law in every particular, withdrew the nomination of his friend and selected another for the place.

I commend the course pursued by President Grant to the parties interested in this controversy.

No one can afford to assume the responsibilities of this office upon whose title there rests the least shadow of a doubt or distrust. As representatives of the people, can we afford to give our consent to the passage of a measure that does, in effect, leave a cloud upon the title, and thereby create distrust in the minds of not only the people of our own country, but also those who have to do with us in our foreign relations?

I again repeat that this House can not afford to relieve an unfortunate political situation by an act that will create a troublesome and doubtful precedent.

I hope the bill will not pass.

Mr. RUCKER. Mr. Speaker, I yield two minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, I can not bring myself to be a part of a conspiracy to evade or violate the Constitution, or to allow or to compel the next President of the United States, immediately after taking the oath of office to support the Constitution, to violate one of its provisions. [Applause.]

It seems to me unfortunate that the country is so devoid of able men that in order to secure a Secretary of State it is compelled to violate both the letter and the spirit of the Constitution. [Applause.] It is true that the passage of this act in itself is no violation of the Constitution, but it is a violation of the proprieties of the occasion. The salary should be as great for the Secretary of State as other Cabinet officers, and the only excuse can be that we do not, if we pass this act, violate what some gentlemen say is the letter of the Constitution, and others say is the spirit of the Constitution. Mr. Speaker, we have had some criticism of the present President that he did not, because he was not a lawyer or a judge, fully appreciate the provisions of the Constitution; and we hoped that the next President—both a lawyer and a judge—would consider the Constitution inviolate and sacred [loud applause], and not commence his administration with its violation. [Renewed applause.]

Mr. JOHNSON of Kentucky. Mr. Speaker, the only question before the House is, Shall we pass the bill reducing the salary of the Secretary of State? The House can not, in either a legislative or judicial way, determine whether or not Mr. KNOX may be made Secretary of State without doing violence to the Constitution.

Therefore we waste time by discussing the question of his eligibility, either with or without the passage of this bill. Those who oppose the reduction of salary contend that, even with the passage of this bill, Mr. KNOX would still be ineligible. If so, then why oppose the reduction of salary? Others, good lawyers, insist that the passage of this bill removes the alleged ineligibility of Mr. KNOX. Then why should not every Member vote for the bill? This is the first time I have ever seen any legislative body undertake to throw a fellow down and stuff into his pockets a larger salary than he demands—one against which he protests. If the salary can be reduced without lessening either the quantity or quality of the service rendered, why need any Member insist, over the protest of the one to be appointed, upon paying a larger salary? If the constitutional eligibility of Mr. KNOX will not be improved by the passage of this bill, as the opponents of the bill assert, why not pass it and save $4,000 to an increasing deficit? If Mr. KNOX is to be appointed Secretary of State, it is infinitely better that all reasonable question as to his eligibility be removed. Those who oppose the passage of this bill argue that the official acts of Mr. KNOX, if appointed, might be invalid, and would, at least, always be questioned. The argument, then, is in favor of the passage of this bill, for the reason that it may remove the constitutional inhibition, and everybody should want the Secretary of State legally installed into office. I take it for granted that every Member of this body, Democrat and Republican, does not wish to limit the incoming President in his efforts to get the strongest men in his party into his Cabinet.

The Democrats should be, and are, sufficiently patriotic to want an honest and an able administration. The Republicans want it because of patriotism and a selfish desire for party success. If we are denied the privilege of making an eminently successful administration of our country's affairs under Democratic control, then, as good citizens, each of us should help make it as successful as is possible under Republican control. Certainly no Democrat should put himself in the unenviable position of even apparently seeking to obstruct the dominant party in its efforts to best serve the country's interests. If Mr. KNOX's eligibiliy, as is conceded, can not be determined here, why insist that the salary of the Secretary of State be $12,000 instead of $8,000? If he is eligible, permit him to accept the smaller salary. If there is a question as to his eligibility, injunction proceedings can be had to prevent the payment of any salary. Then the highest courts of the land can pass upon the question. I see no reason in a vote against an economical and an admittedly constitutional bill in order to defeat the appointment of Mr. KNOX, or anyone else, as well as to prevent the courts from passing upon the question. I am not entirely free from doubt as to whether or not this bill removes ineligibility, but I am unwilling to set my opinion up against the opinion of the Supreme Court. If Mr. KNOX should be appointed,

either with or without the passage of this bill, the Senators of the United States will be called upon to exercise their prerogative of confirming or rejecting the appointment. After a confirmation by the Senate the judgment of the courts can be invoked to finally determine whether or not the constitutional provision has been violated. Why not let the matter come to senatorial determination and judicial finding? Again I insist that the question of eligibility to office is not germane to the simple question as to whether the salary should be $12,000 or $8,000.

Mr. BANNON. Mr. Speaker, it is conceded by all that the bill now before the House does not in any way conflict with any provision of the Constitution. But it is contended that this bill, if enacted into law, will result in a violation of the Constitution. It is urged that during the time for which Senator KNOX was elected as a Senator from Pennsylvania the emoluments of the office of Secretary of State were increased and that the prospective appointment of Senator KNOX to the office of Secretary of State would be a violation of the sixth section of Article I of the Constitution.

Now, it seems to me that this question is not before the House of Representatives. It is not for us to determine whether any person nominated by the President is eligible or ineligible. That duty and that responsibility rests upon the Senate. By the act of July 27, 1789, it is provided that—

> There shall be at the seat of government an executive department to be known as the Department of State, and a Secretary of State, who shall be the head thereof.

Now, section 2 of Article II of the Constitution confers the power upon the President to nominate, and, by and with the advice and consent of the Senate, appoint the Secretary of State. The Senate must give its consent to the appointment, and consequently all questions as to eligibility are with the Senate and not with the House. The difficulty with the position of the opponents of this measure is that they are presuming that the President and Senate will on March 4 violate the provisions of the Constitution. The legal presumption is that they will not. The presumption not only is that they will uphold the Constitution, but that, when action is taken, they have done so. The best statement of this rule I know of is in an opinion by Judge Ranney, of the supreme court of my own State, rendered in 1852 and found in volume 1 of the Ohio State Reports at page 83. It is also a most admirable rule for members of every legislative body to follow. It is a little old-fashioned, but mighty good law. Judge Ranney says:

> The legislature is, of necessity, in the first instance, to be the judge of its own constitutional powers. Its members act under an oath to support the constitution and in every way under responsibilities as great as judicial officers. Their manifest duty is never to exercise a power of doubtful constitutionality. Doubt in their case, as in that of the courts, should be conclusive against all affirmative action. This being their duty, we are bound in all cases to presume they have regarded it, and that they are clearly convinced of their power to pass a law before they put it in the statute book. If a court, in such a case, were to annul the law while entertaining doubts upon the subject, it would present the absurdity of one department of the government overturning in doubt what another had established in settled conviction, and to make the dubious constructions of the judiciary outweigh the fixed conclusions of the general assembly.

If the courts will presume that the legislative branch has regarded the Constitution and was clearly convinced of its power to pass a law before doing so, the House must also presume that the Senate will, upon a matter of confirmation, regard the Constitution and be clearly convinced of the eligibility, under the Constitution, of the person nominated by the President before ordering confirmation.

I do not believe the salary of the Secretary of State ought to be redueed. I favored the increase, and still favor it. I favor increasing the salaries of the federal judges. Yet I will vote for this bill. The President should have the right to select his own advisers, and especially his chief adviser, subject only to the limitations in the Constitution. High tribute has been paid to-day to Senator KNOX, in all of which I concur.

The President-elect is very desirous of appointing him as his Secretary of State. If it is necessary to reduce the salary in order to render Senator KNOX eligible, and the Senator agrees to this method, and the President-elect urges it, we ought to do all we can and whatever we can to aid in removing any impediment to that appointment.

The fact that there are other men of equal ability and equal fitness for the office of Secretary of State is not a valid objection to this measure. Let us do what we can to give the President-elect the men of his selection for his Cabinet, presuming, as we should, that the President will preserve, protect, and defend the Constitution and that the Senate will support the Constitution.

After March 4 the salary of the Secretary of State, if this bill becomes a law, will be $8,000 per annum. It will then be for the Senate to say whether or not Senator KNOX is ineligible if he is nominated by the President-elect. The question will be, Were the emoluments of that office increased during the term of Senator KNOX in the Senate? What emoluments? Why, the emoluments lawfully payable after March 4 next. The salary will then be $8,000, and that amount is the lowest amount payable to that officer during the term for which Senator KNOX was elected as a Senator. Manifestly the salary which the Secretary of State will receive is no greater than the lowest amount payable during the term for which Senator KNOX was elected a Senator.

The SPEAKER. The gentleman from Missouri has one minute remaining.

Mr. GAINES of West Virginia. I yield two minutes to the gentleman from Missouri.

Mr. RUCKER. There must surely be some mistake. I have portioned out the time, and I thought I had two minutes remaining. There was some overrunning the time. I hope that has not been charged against my time.

The SPEAKER. On the contrary, there was some overrunning the time by inadvertence of two minutes, and that was not charged.

Mr. RUCKER. I understand that. I have allotted gentlemen so many minutes and I have two minutes remaining. The time that was used by inadvertence should not be counted.

The SPEAKER. It is not counted.

Mr. RUCKER. That is satisfactory.

The SPEAKER. The gentleman has one minute.

Mr. GAINES of West Virginia. Since making the announcement that I would close in one speech, I have been requested for time, and the gentleman from Missouri is willing that I shall use it. I now yield two minutes to the gentleman from Missouri [Mr. DE ARMOND]. [After a pause.] As the gentleman from Missouri is not at this moment present, under the circumstances will not the gentleman from Missouri use his minute now?

Mr. RUCKER. I yield one minute to the gentleman from New York [Mr. COCKRAN].

Mr. COCKRAN. Mr. Speaker, the time allotted to me, one minute, is quite sufficient to say that I think the only position open to this House consistent with its own dignity and consistent with its duty to maintain the integrity of the political system of which it is a part is the one so admirably stated by the gentleman from Illinois [Mr. MANN]. Apart altogether from the constitutionality of this measure rises the fact that we are deliberately asked to create an inequality in the compensation to be paid public officers discharging kindred service. It does not diminish but increases my objection to it that the chief of the Cabinet is made not the first but the last in point of compensation by the salary we are asked to fix for the Secretary of State. This I consider a most vicious departure from uniformity in the law. We announce to the world one of two things by passing such an extraordinary act: Either that the Constitution itself stands in the way of a proper appointment, which is an impeachment of its excellence, or else that we have power practically to suspend it and that we must exercise the power in order to qualify the one man who is capable of discharging the functions of this office, according to the conception of capacity entertained by the President-elect—which is an impeachment of our citizenship. I do not think it is necessary to condemn the Constitution or to discredit our citizenship—to violate the spirit or letter of our fundamental law—in order that the new President may be able to find all the elements necessary to the most thorough equipment of his administration. There is abundant material in this country for the most efficient discharge of the functions of this office and of every other office under our political system. It is no disrespect to the distinguished Senator from Pennsylvania to say that the citizenship of which he is a member, and of which I am glad to admit he is an ornament, embraces many persons besides himself abundantly capable of discharging any function necessary to the integrity of this Government or the welfare of this country where services can be secured without either violating or evading the Constitution or passing exceptional laws. [Loud applause.]

Mr. GAINES of West Virginia. Is this the last speech on that side?

Mr. RUCKER. The gentleman announced a moment ago that he intended to close in one speech.

Mr. GAINES of West Virginia. But since that I went over to the gentleman and told him a moment ago that I had had a request from the gentleman from Missouri for time.

Mr. RUCKER. That is absolutely true, Mr. Speaker; but, as I understood the gentleman, he said, as the gentleman from Missouri was not on the floor, he therefore asked me to consume the balance of my time.

Mr. GAINES of West Virginia. I announced both to the House and to the gentleman himself that, as the gentleman from Missouri was not present, I would ask him if he would not use his minute now, and then I would yield to the gentleman from Missouri.

Mr. RUCKER. I did not so understand; but I make no objection.

Mr. GAINES of West Virginia. Mr Speaker, I ask for order and yield two minutes to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, the question as I see it does not at all involve a construction of the Constitution, because no constitutional question, I think, is in it. There is no question of constitutional power to raise or lower this salary, or even to abolish this office. As I understand it, the constitutional question as to eligibility arises at the time when the person alleged to be ineligible, or about whose eligibility the question is made, is appointed. Now, if this bill were passed, then upon the 4th or 5th day of next March how would the question stand, if Mr. KNOX should be nominated for Secretary of State? It would not be said, and could not be said, that if confirmed he would enter upon the duties of an office which would give him larger emoluments or a greater salary, because, as to that, the law would be precisely as it was when Mr. KNOX's term in the Senate began, and before the increase was made. Then, what would be said, if anything were said, would be that if Mr. KNOX had been appointed at some other time, with another law with reference to salary existing at that other time, he would have been ineligible.

Now, for illustration, suppose that on the first day of Mr. KNOX's service in the Senate a law had been passed and approved increasing the salary of the Secretary of State, as in fact it was increased later. Suppose that the next day of that session, the second day of his incumbency in the office, that salary had been reduced to the old amount; and suppose that five years and eleven months after that Mr. KNOX had been nominated for Secretary of State. Then the question of eligibility being raised, if it were raised, upon what would it rest? It would rest upon the fact that for a solitary day during almost six years of his incumbency in the office of Senator the salary of Secretary of State had been higher than it was when he went into that office, but not higher than when he was appointed to another office. The length of time surely has nothing to do with it.

The question to be determined is the question of propriety, and not the question of constitutionality. [Applause.]

Mr. GAINES of West Virginia. Mr. Speaker, I regret that those persons who favor a stricter construction of the Constitution will not permit anyone ever to act with them without he becomes also in favor of a mere technical and grammatical construction of that instrument. However, one might meet them, even upon that proposition. The passage of this bill is of course no violation of the Constitution. The bill merely provides for a reduction in the salary of the office of Secretary of State. But I prefer to debate not that question, but the other question which everybody understands to be indirectly involved in our action to-day. The Constitution says that no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time.

Now, if we were to construe the Constitution merely grammatically (and every lawyer knows that the Constitution should not be so construed), if we pass this bill, then the net result will be that the salary of the office of Secretary of State will not have been increased, but will have been left where it was before it was increased.

Mr. HENRY of Texas. Will the gentleman yield for a question?

Mr. GAINES of West Virginia. It is almost impossible in the time I have, but I will yield for a question.

Mr. HENRY of Texas. Does the gentleman think $8,000 is enough salary for the Secretary of State?

Mr. GAINES of West Virginia. That is not the principal question involved. That is not the question which gentlemen have themselves debated, and they ought not to undertake to distract me and take my time on that question, which they themselves declare to be a mere side issue and an evasion of this proposition.

Mr. HENRY of Texas. The gentleman then declines to answer that question?

Mr. GAINES of West Virginia. I decline to be interrupted further.

But, Mr. Speaker, constitutional propositions should not be construed in so technical a manner. In 12 Wallace, the Supreme Court of the United States says:

> Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the business for which those powers were granted. This is a universal rule of construction—

Says that court—

> applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained the language of its provisions must be construed with reference to that purpose and so as to subserve it.

Now, can anybody doubt that if we put this office in a position where there will have been no increase of salary, where it can not by any possible construction be held that there was a hope held out to any Senator in voting for the increase that he might get that increase, if we put it back to where it was, destroying the possibility that any such purpose should have animated him in voting for the increase, have we not complied with this rule of construction and subserved the purposes of the Constitution?

And, says the Supreme Court, there are more urgent reasons for looking to the purpose sought to be accomplished in examining the powers conferred by a constitution than there is in construing a statute, will, or contract. We do not expect to find a constitution minute in details.

In connection with the rule of construction laid down by the Supreme Court of the United States just cited, let us see what the object is of the constitutional provision which we are considering.

The reason for excluding persons from office, says Story, who have been concerned in creating them, or increasing their emoluments, is to take away, as far as possible, any improper motive in the vote of the Representative, and to secure to his constituents some solemn pledge of his disinterestedness.

The object of the Constitution is plain to everybody. I have taken the trouble, however, to cite this great authority for the statement of the purpose of the Constitution.

Now, then, if we take away that increase of salary, will we not have strictly complied with the Constitution? Gentlemen talk as if there was a constitutional ineligibility on the part of the distinguished Senator from Pennsylvania. On the contrary, Mr. Speaker, the only ineligibility is created by statute; and that ineligibility which Congress has by law created Congress can by law remove.

Mr. Speaker, this is not a new question. It has been passed upon twice—once, at least, in the National Government and once in the State of New Jersey. In the case of Senator Lot M. Morrill, of Maine, the very question was involved; and because the statute which had increased the salary of Cabinet officers, and which had been passed during the term for which he had been elected, had also been repealed, Senator Morrill was eligible to appointment in the Cabinet, although the time for which he had been elected Senator had not expired.

The New Jersey case was that of Ex-Governor George T. Werts, who was appointed to the supreme court, although his term as senator had not expired and during that term the salary had once been increased. But because the salary had been again reduced to what it had formerly been, he was deemed to be eligible to the appointment, notwithstanding a provision in the New Jersey constitution similar to the one we are now considering.

The SPEAKER. The time of the gentleman from West Virginia has expired.

Mr. GAINES of West Virginia. Mr. Speaker, I ask the indulgence of the House only to state that if we pass this act and the distinguished Senator from Pennsylvania should become the next Secretary of State, the constitutional provision will not have been evaded, the law will have been adapted to the constitutional provision; the Constitution will not have been violated, but deliberately complied with. [Applause.]

APPENDIX.

UNOFFICIAL OPINION OF ASSISTANT ATTORNEY-GENERAL RUSSELL.

FEBRUARY 10, 1909.

The question has been submitted for my unofficial opinion whether a Member of the present Senate of the United States could be appointed, after the 4th of March next, but prior to the expiration of the period for which he was elected, to the office of Secretary of State, the salary of which was increased since his election, provided Congress should in the meantime restore the salary to what it was when he entered the Senate. The question involves the construction of the Constitution of the United States (Art. I, sec. 6, par. 2), which reads as follows:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof

shall have been increased, during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office."

It is a well-recognized principle of construction, frequently applied by the Supreme Court to the laws and the Constitution—as, for example, in the Legal Tender cases, the income-tax decision, and in a case (143 U. S., p. 457) involving the question whether a minister contracting to remove to the United States was prohibited from entry by the contract-labor law—that a thing may be within the law and yet without the letter of the law, and vice versa. In the decision of the first-mentioned case the Supreme Court said (12 Wall., 531):

"Nor can it be questioned that, when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensible to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered. And there are more urgent reasons for looking to the ultimate purpose in examining the powers conferred by a constitution than there are in construing a statute, a will, or a contract. We do not expect to find in a constitution minute details. It is necessarily brief and comprehensive."

In the contract-labor case concerning the minister the Supreme Court used this language:

"It is a case where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil; and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against. It is the duty of the courts, under those circumstances, to say that however broad the language of the statute may be, the act, although within the letter, is not within the intention of the legislature, and therefore can not be within the statute."

Applying this familiar principle to the language of Article I, section 6, should we regard that language as prohibiting the appointment of a Senator to an office the salary of which, during the term for which he was elected, has been increased and afterwards diminished, so that at the time of his proposed appointment it is no greater than when he was elected Senator?

Is the general purpose of the language of section 6 such that to prohibit an appointment under those circumstances comes within that purpose, or, on the other hand, does the suggested appointment fall outside of the purpose and therefore outside of the law?

An examination of commentaries on the Constitution and of the debates in the convention which framed it leaves no doubt that the purpose, and the sole purpose, of paragraph 2, section 6, Article I, was to destroy the expectation a Representative or Senator might have that he would enjoy the newly created office or the newly created emoluments. (See Rawle on the Constitution, 2d ed., p. 189; Story on the Constitution, sec. 667; First Tucker's Blackstone, appendix, p. 375; Supp. to Elliott's Debates on the Constitution, pp. 189, 229, 375–378, 503–506, and 559.)

The reasons why the framers of the Constitution sought to destroy that hope was to prevent the vote of the Representative or Senator from being influenced by it. However that may have been, those in favor of the provision and those opposed to it concurred in understanding, what is manifest on the face of the provision itself, that the object, and sole object, to be accomplished was to destroy that hope.

Now, if in the case supposed here there could be no such hope, that object can not be accomplished by preventing the appointment. And certainly no such hope can exist, because, if the increase is made and continued, the Representative or Senator can not be appointed. If, on the other hand, it is made and then unmade, he can not get, or hope for, anything more than if there had been no such increase.

In my opinion, therefore, the case presented falls outside of the purpose of the law and is not within the law.

CHARLES W. RUSSELL,
Assistant Attorney-General.

The SPEAKER. All time for debate on this proposition has been exhausted.

Mr. HAMLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMLIN. Is this bill subject to amendment?

The SPEAKER. It is not. As many as are in favor of suspending the rules and discharging the committee and passing the bill will say "aye."

Mr. RUCKER. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 178, nays 123, answered "present" 8, not voting 77, as follows:

YEAS—178.

Adair	Capron	Englebright	Haskins
Alexander, N. Y.	Cassel	Fassett	Haugen
Ames	Chapman	Fitzgerald	Hawley
Andrus	Clayton	Focht	Henry, Conn.
Anthony	Cole	Fordney	Hepburn
Bannon	Conner	Foss	Higgins
Barchfeld	Cook, Pa.	Foster, Vt.	Hill, Conn.
Barclay	Cooper, Pa.	French	Hinshaw
Bartholdt	Cooper, Wis.	Gaines, W. Va.	Holliday
Bartlett, Nev.	Cousins	Gardner, Mass.	Howard
Bates	Craig	Gillett	Howell, N. J.
Beale, Pa.	Crawford	Goebel	Howell, Utah
Bingham	Currier	Goldfogle	Howland
Bonynge	Cushman	Graff	Hubbard, Iowa
Boutell	Dalzell	Greene	Hubbard, W. Va.
Boyd	Davis	Gronna	Huff
Bradley	Dawson	Guernsey	Hughes, W. Va.
Broussard	De Armond	Hackney	Jenkins
Brownlow	Douglas	Haggott	Johnson, Ky.
Burke	Draper	Hale	Jones, Va.
Burleigh	Dwight	Hall	Kahn
Burton, Del.	Edwards, Ky.	Hamilton, Mich.	Kennedy, Iowa
Burton, Ohio	Ellis, Mo.	Hammond	Kennedy, Ohio
Campbell	Ellis, Oreg.	Harding	Kinkaid
Knapp	Martin	Reeder	Taylor, Ala.
Knopf	Maynard	Reynolds	Taylor, Ohio
Knowland	Moon, Tenn.	Richardson	Thistlewood
Langley	Moore, Pa.	Robinson	Thomas, Ohio
Lassiter	Mouser	Rodenberg	Tirrell
Law	Mudd	Scott	Tou Velle
Lawrence	Needham	Sherman	Townsend
Lee	Norris	Slemp	Volstead
Lever	Olcott	Small	Washburn
Longworth	Olmsted	Smith, Cal.	Watkins
Lorimer	Overstreet	Smith, Iowa	Watson
Loud	Padgett	Smith, Mich.	Weeks
Loudenslager	Parker	Sperry	Weems
Lowden	Parsons	Spight	Wiley
McGuire	Payne	Sterling	Wilson, Ill.
McKinlay, Cal.	Pearre	Stevens, Minn.	Wilson, Pa.
McKinney	Perkins	Sturgiss	Woodyard
McLachlan, Cal.	Pollard	Sulloway	Young
Madden	Porter	Sulzer	The Speaker
Madison	Pray	Swasey	
Malby	Ransdell, La.	Tawney	

NAYS—123.

Aiken	Darragh	Hitchcock	Prince
Alexander, Mo.	Davenport	Hobson	Rainey
Ansberry	Denby	Houston	Randell, Tex.
Ashbrook	Dixon	Hughes, N. J.	Rauch
Beall, Tex.	Ellerbe	Hull, Tenn.	Reid
Bede	Ferris	James, Ollie M.	Roberts
Bell, Ga.	Finley	Johnson, S. C.	Rucker
Birdsall	Flood	Kimball	Russell, Mo.
Booher	Floyd	Kipp	Russell, Tex.
Bowers	Foster, Ill.	Kitchin	Ryan
Brantley	Foster, Ind.	Küstermann	Sabath
Brodhead	Fuller	Lamb	Saunders
Brundidge	Fulton	Lenahan	Shackleford
Burgess	Gaines, Tenn.	Lindbergh	Sheppard
Burleson	Garner	Livingston	Sherley
Burnett	Garrett	Lloyd	Sherwood
Byrd	Gilhams	McCall	Sims
Calderhead	Gillespie	McCreary	Slayden
Caldwell	Gordon	McDermott	Smith, Mo.
Candler	Gregg	Macon	Smith, Tex.
Carter	Hackett	Mann	Stafford
Cary	Hamilton, Iowa	Marshall	Stanley
Caulfield	Hamlin	Miller	Stephens, Tex.
Chaney	Hardwick	Moore, Tex.	Thomas, N. C.
Clark, Fla.	Hardy	Murdock	Underwood
Clark, Mo.	Harrison	Murphy	Waldo
Cockran	Hay	Nelson	Wallace
Cook, Colo.	Hayes	Nicholls	Webb
Cooper, Tex.	Heflin	Nye	Wheeler
Cox, Ind.	Helm	O'Connell	Williams
Cravens	Henry, Tex.	Page	

ANSWERED "PRESENT"—8.

Adamson	Hull, Iowa	Keifer	McMillan
Bartlett, Ga.	Humphreys, Miss.	McGavin	McMorran

NOT VOTING—77.

Acheson	Fairchild	Keliher	Pou
Allen	Favrot	Lafean	Pratt
Barnhart	Foelker	Lamar, Fla.	Pujo
Bennet, N. Y.	Fornes	Lamar, Mo.	Rhinock
Bennett, Ky.	Foulkrod	Landis	Riordan
Butler	Fowler	Laning	Rothermel
Calder	Gardner, Mich.	Leake	Snapp
Carlin	Gardner, N. J.	Legare	Southwick
Cocks, N. Y.	Gill	Lewis	Sparkman
Coudrey	Glass	Lindsay	Steenerson
Crumpacker	Godwin	Lovering	Talbott
Davidson.	Goulden	McHenry	Vreeland
Dawes	Graham	McKinley, Ill.	Wanger
Denver	Griggs	McLain	Weisse
Diekema	Hamill	McLaughlin, Mich.	Willett
Driscoll	Hill, Miss.	Mondell	Wolf
Durey	Humphrey, Wash.	Moon, Pa.	Wood
Edwards, Ga.	Jackson	Morse	
Esch	James, Addison D.	Patterson	
Estopinal	Jones, Wash.	Peters	

So, two-thirds not having voted in favor thereof, the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. BUTLER with Mr. BARTLETT of Georgia.

Mr. MCMORRAN with Mr. PUJO.

Mr. WANGER with Mr. ADAMSON.

Mr. BENNET of New York with Mr. FORNES.

Until further notice:

Mr. ACHESON with Mr. CARLIN.

Mr. ALLEN with Mr. DENVER.

Mr. BENNETT of Kentucky with Mr. EDWARDS of Georgia.

Mr. CALDER with Mr. FAVROT.

Mr. COCKS of New York with Mr. GILL.

Mr. DAVIDSON with Mr. GODWIN.

Mr. CRUMPACKER with Mr. GLASS.

Mr. DAWES with Mr. GRIGGS.

Mr. DUREY with Mr. HAMILL.

Mr. ESCH with Mr. KELIHER.

Mr. FOELKER with Mr. LAMAR of Florida.

Mr. FOULKROD with Mr. LAMAR of Missouri.

Mr. HUMPHREY of Washington with Mr. LEGARE.

Mr. ADDISON D. JAMES with Mr. LEWIS.

Mr. JONES of Washington with Mr. LINDSAY.

Mr. LAFEAN with Mr. PATTERSON.

Mr. LANING with Mr. RHINOCK.

Mr. LOVERING with Mr. ROTHERMEL.
Mr. MCLAUGHLIN of Michigan with Mr. SPARKMAN.
Mr. MCMILLAN with Mr. TALBOTT.
Mr. MONDELL with Mr. WEISSE.
Mr. MOON of Pennsylvania with Mr. WILLETT.
Mr. SOUTHWICK with Mr. WOLF.
Mr. MCKINLEY of Illinois with Mr. MCLAIN.
Mr. MORSE with Mr. POU.
Mr. WOOD with Mr. ESTOPINAL.
Mr. GARDNER of Michigan with Mr. BARNHART.
Mr. COUDREY with Mr. RIORDAN.
Mr. LANDIS with Mr. MCHENRY.
Mr. DIEKEMA with Mr. GOULDEN.
Mr. VREELAND with Mr. HILL of Mississippi.

Mr. BARTLETT of Georgia. Mr. Speaker, I desire to know if the gentleman from Pennsylvania [Mr. BUTLER] has voted on this roll.

The SPEAKER. He did not.

Mr. BARTLETT of Georgia. Mr. Speaker, there should be a pair, and I hope it will be put in the RECORD, between the gentleman from Pennsylvania and myself. I therefore desire to withdraw my negative vote and to answer "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. BARTLETT of Georgia, and he answered "present."

The result of the vote was announced as above recorded.

SAFETY OF EMPLOYEES AND TRAVELERS ON RAILROADS.

Mr. TOWNSEND. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I move to suspend the rules and pass the bill (H. R. 26725) to supplement an act entitled "An act to promote the safety of employees and travelers upon railroads," which I send to the desk and ask to have read.

The SPEAKER. Without objection, the Clerk will report the substitute.

There was no objection.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the provisions of this act shall apply to every common carrier and every vehicle subject to the act of March 2, 1893, as amended April 1, 1896, and March 2, 1903, commonly known as the 'safety-appliance acts.'

"SEC. 2. That on and after July 1, 1910, it shall be unlawful for any common carrier subject to the provisions of this act to haul, or permit to be hauled or used, on its line any car subject to the provisions of this act not equipped with appliances provided for in this act, to wit: All cars must be equipped with secure sill steps and efficient hand brakes; all cars requiring secure ladders and secure running boards shall be equipped with such ladders and running boards; and all cars having ladders shall also be equipped with secure hand holds or grab irons on their roofs at the tops of such ladders.

"SEC. 3. That within six months from the passage of this act the Interstate Commerce Commission, after hearing, shall designate the number, dimensions, location, and manner of application of the appliances provided for by section 2 of this act and section 4 of the act of March 2, 1893, as amended April 1, 1896, and shall give notice of such designation to all common carriers subject to the provisions of this act by such means as the commission may deem proper, and thereafter said number, location, dimensions, and manner of application as designated by said commission shall remain as the standards of equipment to be used on all cars subject to the provisions of this act, unless changed by an order of said Interstate Commerce Commission, to be made after full hearing and for good cause shown; and failure to comply with any such requirement of the Interstate Commerce Commission shall be subject to a like penalty as failure to comply with any requirement of this act: *Provided*, That the Interstate Commerce Commission may, upon full hearing and for good cause, modify the requirements of this section or extend the period within which any common carrier shall comply with the provisions of this section with respect to the equipment of cars actually in service upon the date of the passage of this act.

"SEC. 4. That any common carrier subject to this act using, hauling, or permitting to be used or hauled on its line, any car subject to the requirements of this act not equipped as provided in this act shall be liable to a penalty of $100 for each and every such violation, to be recovered as provided in section 6 of the act of March 2, 1893, as amended April 1, 1896.

"SEC. 5. That nothing in this act shall be held or construed to relieve any common carrier, the Interstate Commerce Commission, or any United States attorney from any of the provisions, powers, duties, liabilities, or requirements of said act of March 2, 1893, as amended by the acts of April 1, 1896, and March 2, 1903; and all of the provisions, powers, duties, requirements, and liabilities of said act of March 2, 1893, as amended by the acts of April 1, 1896, and March 2, 1903, shall apply to this act.

"SEC. 6. That it shall be the duty of the Interstate Commerce Commission to enforce the provisions of this act, and all powers heretofore granted to said commission are hereby extended to it for the purpose of the enforcement of this act."

The SPEAKER pro tempore (Mr. HULL of Iowa). Is a second demanded?

Mr. ADAMSON. Mr. Speaker, I demand a second.

Mr. TOWNSEND. I ask unanimous consent that a second be considered as ordered.

The SPEAKER pro tempore. Is there objection?

Mr. ADAMSON. I object.

The SPEAKER pro tempore. The question is on ordering a second. The gentleman from Michigan [Mr. TOWNSEND] and the gentleman from Georgia [Mr. ADAMSON] will take their places as tellers.

The House divided; and there were—ayes 53, noes 45.

So a second was ordered.

The SPEAKER pro tempore. The gentleman from Michigan is entitled to twenty minutes and the gentleman from Georgia to twenty minutes.

Mr. TOWNSEND. Mr. Speaker, I do not care to occupy very much time now further than to explain very briefly the scope and object of the pending bill. While we have a law which provides for safety devices used in the operation of railroad trains, we have no penalty prescribed by the law, and therefore it is not enforced. The proposition is to compel the equipment of cars with running-boards, ladders, hand holds, steps, and the like, so as to contribute to the safety of employees. The measure is asked for by the Interstate Commerce Commission, which has discovered that it has been helpless in its effort to enforce uniformity of equipment. It is also demanded by the National Switchmen's Union of the United States, whose members perhaps have more to do with all of the appliances than any other body of railroad men. The facts are that while the Master Car Builders' Associations get together frequently and agree practically upon a uniform system of constructing cars, they nevertheless fail to go home and put that agreement into force, and the result is that every freight train in the United States, almost without exception, is made up of cars equipped with different kinds of appliances and arranged in a different manner. As a result of this, and almost entirely attributable to it, last year there were 178 men killed and over 3,000 men injured. It is thought that if we could enforce a provision compelling every railroad in the United States to equip its cars within a reasonable time in the same manner we should then avoid most, if not all, of these deaths and accidents. Is it not worth while to try? Are the lives of railroad men of so little value that we shall neglect longer to use a means of safety which even the opponents of the pending measure admit will be of much benefit, and simply because some lobbyist is not ready to O. K. the plan?

Mr. GAINES of Tennessee. Will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. GAINES of Tennessee. Does the bill include all the recommendations of the Interstate Commerce Commission and also the labor organizations on the subject?

Mr. TOWNSEND. It is practically a bill which was prepared, as I understand it, under the instructions of the Interstate Commerce Commission; and so far as labor organizations have appeared before our committee, with the exception of one man, it has been indorsed by those organizations, and especially by those particular organizations which are most affected by it. There was one gentleman who appeared before the committee and stated that his organization had not acted upon this matter, but that we should take notice that for the reason that they had not asked for it, we should infer that they were opposed to it. We insisted that this measure should pass, and the gentleman claimed that we had better wait a while, although we have been waiting in this country for twenty years or more for the railroads, the Master Car Builders' Association, and the railroad employees to get together upon a uniform system. In the meanwhile crepe was being hung on the doors of thousands of our people's homes; mothers, wives, and children were mourning their slaughtered dead, and thousands of breadwinners were being crippled for life. Now, this measure does not preclude a hearing, and every man, whether a member of a labor organization or a railroad representative, has a right to appear before the commission and be heard on the proposition for standardizing these appliances.

Mr. GAINES of Tennessee. Does not the gentleman think we ought to provide something that will protect the railroad employees from being dismissed for reporting the ill condition or illegal or dangerous condition of the cars, and is not a fear of dismissal one reason why we do not get the existing law enforced?

Mr. TOWNSEND. I think not. Such a provision would not be germane to this bill. The existing law would be enforced if there were a penalty attached to it compelling the railroads to equip. There is no penalty now.

Mr. GAINES of Tennessee. What is the date of the existing law?

Mr. TOWNSEND. It was first enacted in 1893 and amended some years afterwards.

Mr. GAINES of Tennessee. Is the bill exactly as the Interstate Commerce Commission recommends?

Mr. TOWNSEND. No; not exactly, but——

Mr. GAINES of Tennessee. I am, and I think this side of the House is, in entire ignorance of the details of this bill, and

we would like to have the gentleman explain it fully. I want to help these employees to bar dangers, but I want to know how you propose to do so, so I can act intelligently.

Mr. TOWNSEND. This simply proposes a penalty and enables the commission to fix standards after a full hearing.

Mr. GAINES of Tennessee. Is that all the Interstate Commerce Commission asks?

Mr. TOWNSEND. That is all it asks. Now, Mr. Speaker, I will reserve the balance of my time——

Mr. ELLIS of Missouri. Mr. Speaker, will the gentleman yield for a question?

Mr. TOWNSEND. Yes; I will yield for a question from the gentleman from Missouri.

Mr. ELLIS of Missouri. I want to call the gentleman's attention to the last proviso at the end of section 3——

Mr. TOWNSEND. Yes.

Mr. ELLIS of Missouri (continuing). Conferring upon the Interstate Commerce Commission the power to modify the requirements of this section by extending the period, and so forth. Do we understand by that they would have the power to modify these requirements so as to change the appliances that might be prescribed by this measure?

Mr. TOWNSEND. We make no provision as to any particular kind of appliances, only that they shall be safe. Now, the power of determining must be left with the commission, otherwise it would not be able to prescribe what might afterwards be found to be a better device or method. Furthermore, it should be discretional with it to give the railroads more time in which to equip their cars. That is left discretionary with the commission.

Mr. ELLIS of Missouri. I can readily see that an extension of time might be permitted, but the question is, whether you leave the power in the commission to really nullify the provisions of your bill.

Mr. TOWNSEND. No.

Mr. COOPER of Wisconsin. Mr. Speaker, I would like to ask the gentleman, What are the objections preferred by the employees against the provisions of this bill? I have never been able to learn what they are, and I would like to understand some of them.

Mr. TOWNSEND. Then I will say to the gentleman, the only man who appeared against it, aside from representatives of the railroads—and they were simply arguing there was an extra cost that would attach to them—was Mr. Fuller, a representative of some railroad organization, although one railroad organization was represented by Mr. Gauss, who asked for the passage of the bill. But Mr. Fuller's objection was that he did not want the commission intrusted with this power; that he was in favor of standardizing the methods of equipment by a law enacted by Congress; that he could have more influence with Congress than with the commission, so he did not want to leave it with the commission, and did not want to take the matter up now, but postpone it to some future time.

Mr. COOPER of Wisconsin. Were there any specific proposed requirements of the commission to which he especially objected?

Mr. TOWNSEND. Not one. There was nothing specified to the effect that anything unreasonable was asked.

Mr. DRISCOLL. Will the gentleman yield?

Mr. TOWNSEND. I will if it will not take up too much of my time.

Mr. DRISCOLL. Does this bill provide for standardizing with reference to the location of the ladders on the cars?

Mr. TOWNSEND. Yes, sir.

Mr. DRISCOLL. I do not see it here.

Mr. TOWNSEND. For the arrangement of ladders, grips, hand holds, and all of those appliances, in section 2 of the bill.

Mr. DRISCOLL. I know; but the location of the ladder on the car is a very important question and one that ought to be very carefully considered.

Mr. TOWNSEND. Yes, sir; and that will be taken up by the commission.

Mr. DRISCOLL. Does not the gentleman think that is being pushed through with undue haste? It was only reported Saturday. I am very much interested and always have been in this kind of legislation, because I represent a district in which there are many railroad men, and always try to do as near as I can what they want if it is for their good.

Mr. TOWNSEND. The committee has had hearings on this matter, and this safety-appliance provision has been discussed several times before our committee, the different hearings spreading over years of time.

Mr. DRISCOLL. The hearings that were taken before this committee are not yet printed.

Mr. TOWNSEND. I am stating the substance of the hearings when I say that the people directly interested, the switchmen of the country, through their organizations, are favorable to this provision, and the records show that this kind of a provision is absolutely necessary. We have waited year in and year out for the railroads to get together and adopt the master car builders' suggestions, or some other, as to the equipment of cars, because it would be infinitely better, even though the arrangement were somewhat defective, to have a uniform system rather than to have all the kinds of equipment which every train will disclose.

Mr. DRISCOLL. I fully agree with the gentleman on that. I believe in standardizing. But the switchmen are only a small proportion of the men that are directly concerned in the use of these appliances.

Mr. TOWNSEND. But they are a large proportion of the men who are directly interested in this particular kind of equipment.

Mr. DRISCOLL. But the brakemen are also interested, and I agree that the life and limbs of these men should be considered of the most importance here.

Mr. TOWNSEND. Mr. Speaker, I reserve the balance of my time.

Mr. ADAMSON. While I am not urging this legislation, I entertain no violent hostility to its professed purposes. I demanded a second in order in all fairness to state to the House the objections that were urged by the opposition before the committee and to afford an opportunity to any of my colleagues who desire to speak in opposition to the bill to do so.

The objections, as we understood them, Mr. Speaker, are, first, that the Interstate Commerce Commission would likely adopt the plans of the Master Car Builders' Association. In support of that objection, it was cited that the President had already ordered their plan into operation on the Isthmus. I stated to the gentlemen who represented the objectors, frankly, that if the 200,000 operatives whom he professed to represent, and who were accustomed to having their limbs mangled and their lives destroyed by the operation of trains not properly equipped with uniform safety appliances, would submit to us a plan, I for one, and perhaps all of the committee, would very likely side with those who are in danger of being mangled in the course of their business, by accepting their judgment in the matter.

But the answer was that they were not ready to submit a plan, that they were not ready to have legislation, and all they insisted on now was time to consider, mature, and submit their plans. It appears to me that if it is to be left with somebody to decide what uniform plan shall be adopted, it being clear that we have not sufficient knowledge, opportunity, nor time to consider and make a decision if it were left to us, that perhaps the body constituted by law for such purposes, the Interstate Commerce Commission, ought more properly be charged with the duty; and if the personnel is not such as to secure the greatest efficiency in the discharge of the duties incumbent upon that body, the personnel can easily be reformed. Now, Mr. Speaker, I will yield to other gentlemen.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. ADAMSON. With pleasure.

Mr. COX of Indiana. I received a letter this morning from Mr. H. R. Fuller, and I presume a large number of gentlemen have received similar letters from him, in opposition to this bill; and therefore I would like to get some information. Now, when did the hearings on this bill begin before the committee?

Mr. ADAMSON. They have been going on at different times for a long time; I can not say exactly how many months.

Mr. COX of Indiana. Can the gentleman give some idea how many days of this session have been consumed in those hearings?

Mr. ADAMSON. A good many.

Mr. COX of Indiana. I will ask the gentleman whether Mr. Fuller had notice or not of the hearings that were going on in regard to this bill?

Mr. ADAMSON. Now, my own opinion is, and I am a friend of Mr. Fuller and the 200,000 men whom he represents, that Mr. Fuller has been more courteously and liberally heard by the committee than all other men put together.

Mr. COX of Indiana. Was he heard this session on this particular bill?

Mr. ADAMSON. Time after time.

Mr. COX of Indiana. I will ask the gentleman whether or not the hearings that have been had at this session have yet been printed?

Mr. ADAMSON. I do not know whether they have or not.

Mr. BARTLETT of Georgia. We have not got them from the Printing Office yet.

Mr. ADAMSON. I wish to say to the gentleman from Indiana that Mr. Fuller is the gentleman to whom I made the

statement in the committee that if he would present the plan of his constituents, which he regarded as preferable to the Master Car Builders' Association, we would favorably consider it.

Mr. COX of Indiana. He makes a statement here that the bill under consideration has been indorsed by the Switchmen's Union, which represents about 9,000 men, while he represents the vast majority of the car operators and train men who are opposed to it. He makes the statement that the bill under consideration was favored by the Master Car Builders' Association. Now, I would like to know whether or not they appeared before the committee at this session.

Mr. ADAMSON. Well, I suppose that those who represented their ideas did. It was not denied, I believe, that their plans were favorably regarded by supporters of the bill and were favored by the Interstate Commerce Commission.

Mr. COX of Indiana. I will ask the gentleman whether or not the bill under consideration would therefore or does therefore meet the approval of the Master Car Builders' Association.

Mr. ADAMSON. That is my understanding.

Mr. COX of Indiana. Just one more question. So far as the safety appliances are concerned as embraced in this bill under consideration, how does it change section 1 of the act of 1893 and the amendatory acts thereof?

Mr. ADAMSON. I would not undertake to answer that question in detail from memory. I would prefer to read the two sections before answering.

Mr. COX of Indiana. Mr. Fuller is the representative of a large number of men actually operating on trains?

Mr. ADAMSON. So he says; and I do not hesitate to repeat what I have already said, that in legislating for the safety and reliability of railroads, I would unhesitatingly regard the people who incur the danger if they would present their plans.

Mr. COX of Indiana. Mr. Fuller simply wanted a little more time to give him an opportunity to consult with the train men. Is that correct?

Mr. ADAMSON. He said that he wanted more time, until they could mature their plans; that all concerned had not yet been able to agree on the best plans.

Mr. GAINES of Tennessee. Does the gentleman think that the railroad men who make their reports and come here and complain to the Interstate Commerce Commission would not be afraid of losing their jobs at home?

Mr. ADAMSON. Well, I do not know about that. They must complain to somebody.

Mr. GAINES of Tennessee. The gentleman is too experienced a lawyer not to know that they are not coming here to make complaints against their employers.

Mr. ADAMSON. I understand that these 200,000 men represented by Mr. Fuller are all employees.

Mr. GAINES of Tennessee. I will tell the gentleman an experience I had about the telegraph bill. They wrote me in the utmost confidence, and one of them happened to be a boy who once came to school to me. He cautioned me thus: "Do not let anybody know about this." He was a splendid young fellow. Other telegraph men said the same thing to me. They never were afraid if they filed any complaints against the railroad company they would lose their jobs. Now, is there anything in this bill to allow these people to come here and lodge complaints and to punish the railroad official who discharges a man for doing so?

Mr. ADAMSON. I do not think that is in this bill, I am sorry to say.

Mr. GAINES of Tennessee. I wish it did have such a provision.

Mr. ADAMSON. How much time have I consumed?

The SPEAKER pro tempore. The gentleman has consumed eight minutes.

Mr. ADAMSON. I yield five minutes, or such time as he desires, to the gentleman from Missouri [Mr. CLARK].

Mr. CLARK of Missouri. Mr. Speaker, about an hour ago I preferred a very reasonable request in this House, and that was that we have an hour on a side to debate that Knox proposition. The floor leader of the Republicans [Mr. PAYNE] very promptly objected, as I think, on a tip from the Speaker.

When I was elected to the position that I occupy in this House the newspapers wanted to know whether I was going to pursue tactics of general obstruction. I said "No;" that a general policy of obstruction was idiotic; that nobody had ever pursued such a course; but that when we were maltreated I proposed to pursue that course to an extent sufficient to stop such imposition, and I am going to do it now until we consume two hours of time. This is fair notice to everybody in the House that every time there is an attempt at imposition on the minority I will find some way to even up. [Applause on the Democratic side.]

Mr. MILLER. Will the gentleman allow me to ask him a question?

Mr. CLARK of Missouri. Yes.

Mr. MILLER. I want to know what he means by the "Knox bill."

Mr. CLARK of Missouri. Why, the bill to make Senator KNOX Secretary of State, which we had up and defeated a short time ago under suspension of the rules and which I hear we will have up again in a few minutes under a special rule.

Mr. COCKRAN. The bill that knocks the Constitution. [Laughter.]

Mr. CLARK of Missouri. Now, I hope we will have a fair understanding about such things as that.

As far as this bill is concerned, I have not had time to read it, and nobody else has had any time to read it except the members of the committee and my distinguished friend from Illinois [Mr. MANN], who reads everything. I want to say that I think he is a very valuable adjunct to this body. [Applause.]

The hearings on this bill have never been printed, and if we wanted to inform ourselves about it we have not had any chance to do it. I am opposed to that sort of legislation under any circumstances or at any time. I do not know whether this is a good bill or a bad one, and nobody else knows, except the members of the committee.

Mr. SULZER. Fuller says it is a bad bill.

Mr. CLARK of Missouri. I will come to that in a minute. I want to read a couple of telegrams and Mr. Fuller's letter. The first telegram runs as follows:

CLEVELAND, OHIO, *February 15, 1909.*

Hon. CHAMP CLARK,
Congressman, Washington, D. C.:

More than 200,000 members of train and enginemen's organizations oppose passage of Watson bill (H. R. 26725) as reported, and favor passage of Rodenberg concurrent resolution No. 63 as substitute therefor.

W. S. STONE.

Here is another telegram:

CLEVELAND, OHIO, *February 14, 1909.*

Hon. CHAMP CLARK,
Washington, D. C.:

More than 200,000 members of train and enginemen's organizations oppose passage of Watson bill (H. R. 26725) as reported, and favor passage of Rodenberg concurrent resolution No. 63 as substitute therefor.

W. G. LEE,
Grand Master Brotherhood of Railway Trainmen.

Here is the letter from Mr. Fuller that the gentleman from New York [Mr. SULZER] was asking about:

WASHINGTON, D. C., *February 14, 1909.*

Hon. WILLIAM B. WILSON, M. C.,
Washington, D. C.

DEAR SIR: On behalf of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, and Brotherhood of Railroad Trainmen, and representing 230,000 railroad employees, I respectfully solicit your cooperation and assistance in our efforts to prevent the passage of the Watson bill (H. R. 26725) to supplement the safety-appliance act, which bill was reported from the Committee on Interstate and Foreign Commerce yesterday, and which, it is thought, will be called up in the House to-morrow, February 15.

This legislation was primarily sought by the secretary of the Interstate Commerce Commission, and its purpose is to force the adoption of the Master Car Builders' Association's standards regarding hand brakes, sill steps, ladders, and running boards upon freight cars, some of which standards are objectionable and dangerous to the brakemen and switchmen of the country, for it directs the Interstate Commerce Commission to fix the standards, and it is well known that the secretary, who is the officer in charge of the enforcement of the safety-appliance law, has repeatedly declared that the master car builders' standards should be the law, and the commission itself is also committed to them.

It is true this measure has received the indorsement of the Switchmen's Union, but that organization represents but a small minority of the employees directly affected, its membership being limited to 9,000 switchmen, whereas the Brotherhood of Railway Trainmen, which organization is opposed to its passage, has a membership of 28,000 switchmen and also represents a large majority of the organized brakemen of the United States, all of whom are vitally interested, and who are not asking for the passage of this bill.

We appeared before the committee and gave what we believed were good reasons why this bill should not be passed, and we think the Members of the House should be permitted to read the testimony before being compelled to vote upon it; yet, as we understand it, it is the intention to bring the matter to a vote before the testimony is printed.

That has been done.

We do not object to, but, in fact, favor the ultimate standardizing of these appliances, but there is a difference of opinion among the employees themselves as to their dimensions and location, and until there are some prospects of agreement among the men we believe any legislation which either fixes or authorizes or requires the fixing of these standards is both premature and unwise and should not be passed.

Yours, truly,

H. R. FULLER,
National Legislative Representative.

I want to say this to the gentleman from Michigan [Mr. TOWNSEND]: I think he ought to withdraw this bill for the present and give us a chance to investigate it, because nobody knows whether it is good or bad. If we find it to be a good bill, we would all vote for it, for everybody knows that a good bill on this subject ought to pass.

Mr. ADAMSON. How much time have I remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has four minutes remaining.

Mr. SULZER. I should like a minute.

Mr. ADAMSON. I should like to accommodate the gentleman, but I have promised all my time. The gentleman from New York [Mr. DRISCOLL] asked to be recognized, and so did the gentleman from Kentucky [Mr. STANLEY]. I can only yield the time between them.

The SPEAKER pro tempore. The gentleman from New York [Mr. DRISCOLL] is recognized for two minutes.

Mr. DRISCOLL. Mr. Speaker, I have tried perhaps as many accident cases against railroads in my time as any Member of this House, and I claim to have some personal knowledge from experience and observation as to how accidents happen to men in the running service.

Syracuse, N. Y., my home, in the center of the district which I have the honor to represent, is a large railroad center, and in East Syracuse are perhaps the largest railroad and freight yards in the world. There is a large number of railroad men engaged in all grades of the service living in my district, and they are always interested in legislation of this character. They generally come to me when interested in any railroad matter which affects them, and we talk it over, and while I make no definite promises, I always feel disposed to interest myself in their behalf and for legislation in which they are interested, if I think it is fair and proper legislation; and every provision and improvement which will have a tendency to save the lives and limbs of men should have the most careful and thoughtful consideration; and nothing which will not accomplish that end should be hastily or immaturely enacted into law by the Congress or put into the form of controlling regulation by any department or official of the Government.

I agree with the committee that the safety appliances referred to in the bill should be standardized, if they can be. But there is one part of it I do not think can well be standardized. In the western country, where land is cheap and plentiful, and where the tracks are far apart, they may be able to put the tracks so far apart that the ladders may be placed on the sides instead of the ends of the cars. But in the East, where tracks have been established for a long time, and where they are closer together, it is very likely that ladders must be placed on the ends of the cars; because if placed on the sides, they will be so close to other cars running by, and so close to the sides of tunnels and the abutments of bridges and to telegraph and telephone poles and other obstructions, that men in climbing up and down on the sides of the cars would be apt to be swept off and injured or killed. Aside from these obstructions and resulting dangers it would be much better to have all the ladders on the sides; but I take it that on account of these present difficulties the ladders may be placed, in the eastern part of the country, on the ends of the cars rather than the sides; and this is a matter which deserves very careful attention before it is finally decided upon by Congress or the Interstate Commerce Commission.

It is an easy matter to standardize the sill steps, and it strikes me that it would not be very difficult to standardize efficient hand brakes. Also it would be easy enough, in my judgment, to standardize running boards. This bill provides for the standardizing of secure hand holds or grip irons on the roofs of the cars and at the tops of the ladders. But it does not provide for their position with reference to the tops of the ladders, and it strikes me, from experience and observation, that they should be placed some considerable distance from the top, in order that men may climb up and get on top of the cars with less danger of accidents.

This bill was introduced on January 19, but no Member of Congress can possibly examine all the bills and familiarize himself with them. If he can keep track of the bills reported and which are of interest to his constituents, he is doing pretty well. This bill was only reported last Saturday, February 13, and to-day, Monday, it is being pushed through the House with only twenty minutes' debate on either side and under suspension of the rules, with no chance to amend. The hearings before the committee on this particular matter have not yet been printed, and the Members interested have not had an opportunity to examine the evidence and form a deliberate conclusion with reference to the merits of this bill. The railroad organizations throughout the country have not had a fair chance to examine this bill and to submit their views to their Representatives in Congress, a privilege and opportunity which they always should have, because they are the people most interested in this measure.

I am aware that the Master Car Builders' Association is interested and the railroad companies are interested, but the parties most vitally concerned are the men who have to use those appliances by day and night and whose lives and limbs are in danger if they are structurally defective or out of order.

It seems to me that this bill should not be crowded through in this way; that all men concerned in this legislation should have an opportunity to consider it carefully and deliberately, and perhaps they could agree among themselves, or their Representatives can agree, as to just how these various safety appliances should be standardized and perhaps improved in such manner as to result in a mutual benefit to the car builders and the men. I oppose this bill not because I have heard from the railway organizations in my district, but because I have not heard from them and they have not had an opportunity to express their judgment about it. If the several organizations who are interested in this legislation can not agree, or substantially agree, as to the manner of this standardizing, then that will have to be done by some other authority. But they ought to have a chance to come together and agree on this matter, if possible. Therefore I believe the bill ought not pass to-day. I shall vote against it, and hope it may be defeated.

Mr. ADAMSON. I now yield two minutes to the gentleman from Kentucky [Mr. STANLEY].

Mr. STANLEY. Mr. Speaker, there is a German adage that "The better is the worst enemy of the best." No greater harm can be done legislation in favor of safety appliances than by the hurried passage of ill-digested, ill-considered, and insufficient legislation. Upon it hangs the lives of millions of operatives and tens of millions of travelers and passengers upon our railroad trains. I do not charge that this legislation is ill considered, nor so state, but it is manifest that it is hurried. We have had no opportunity to examine the hearings. We have had no opportunity to investigate this question for ourselves. Suppose this pernicious practice of bringing bills into the House were usual, what would be the use of hearings? We do not sit here as a high court; we simply sit to confirm what the committee has done? We are entitled to have these hearings, and without these hearings shall we fly deliberately and in the face of 250,000 railroad men, every one of whom holds his life as a hostage to his honesty and disinterestedness in his opposition to this legislation. And I maintain that this great army of brave and faithful men—a quarter of a million railway engineers and firemen, whose lives and limbs are daily and hourly imperiled by any mistake we may make—shall be fully and fairly heard.

Mr. ADAMSON. I now yield the remainder of the time to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, I realize that probably this bill will not pass under this motion to suspend the rules. It is unfortunate that this is the situation. When the gentleman from Missouri and the gentleman from Kentucky, however, seek to hide behind the proposition that the hearings have not been printed, it makes me smile. For more than a year we have had hearings printed on the subject which neither gentleman has ever seen or read. If we had printed bushels of hearings, they would know no more about those than about the one we printed a year ago. The present bill is the outgrowth of hearings we had a long time ago, and which we did have printed.

Mr. STANLEY. Will the gentleman yield for a statement?

Mr. MANN. I can not yield; my time is too short. I do not criticise the gentleman; he has not seen the hearings printed a year ago.

Mr. STANLEY. I beg the gentleman's pardon, I have seen them.

Mr. MANN. Then the gentleman has seen them. Then the gentleman has no excuse for opposing the bill. [Laughter.] I realize, however, that a certain gentleman now sitting in the gallery of the House is seeking to direct the destinies of this House through claiming that he represents 230,000 trainmen in the country. I hope that upon his conscience, if this bill be defeated, will rest the agony of knowing that he is the cause of the death of many a man on the train, that he has cut the leg off many a switchman and many a trainman, that he has deprived many a man of his arm, and that he has made many an orphan and many a widow.

The whole purpose of this bill is to have the hand brake, the ladders, the stirrups, and the safety appliances which every brakeman and switchman is required to use look all alike, so that the man who becomes accustomed to swinging onto a car, who swings on without stopping to look, can do so without looking to see just how they are placed. The bill is asked for by a great majority of the trainmen of the country, who are not in this particular represented by Mr. Fuller. It is true gentlemen here receive telegrams from persons at home who do not know anything about what the bill is. The bill is asked for by the American Federation of Labor. Remember that. It is asked for by the Order of Railroad Conductors. Remember that.

It is asked for by the Switchmen's Union. Remember that. It is asked for by decency and humanity. The gentleman from New York [Mr. DRISCOLL] says they want the ladders on the side on the western cars, where the tracks are wider. We want the ladders at the same place on every car, because western cars come east and eastern cars go west, and when a man seeks to swing himself onto a car he ought to feel that he will find the ladder where he expects it and not become accustomed to using the ladder on the side and then fall between the cars because the ladder is on the end. It does not make any great difference where these appliances are placed. Some men want them in one place and some want them in another place. Doubtless each has equally good arguments, but the point is that if they can all be placed in the same place uniformly on the cars, it will save human life. The only real objection that has been made to the bill was made by the railroad companies, who said it would cost them money to change these appliances, and we did not consider that a sufficient objection. [Applause.]

Mr. TOWNSEND. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has five minutes.

Mr. TOWNSEND. Mr. Speaker, I assume that it will not be of any avail for me to discuss this matter further with gentlemen who have been influenced and who will be influenced, not by the merits of the case, but by telegrams and special-delivery letters which have been sent out for the purpose, not of enlightening the Congress, but of prejudicing Members who are to vote. The gentleman from Missouri [Mr. CLARK] has read a letter in which the writer states that some of the provisions of the Master Car Builders' Association are not satisfactory to some of these alleged leaders of railroad men. The fact of the matter is that there are all kinds of methods now employed. The object of this bill is to make one uniform system, and the gentleman who has sent out the special letters stated before our committee that his organizations had given him no instructions on this subject. I submit that when any man states that 250,000 men in this country are opposed to this measure he is stating an absolute falsehood. There are not that number who even know about it. One of the representatives of the trainmen, Mr. Goss, appeared before our committee in favor of this bill and claimed to be representing the railroad men of his organization in his testimony, so that it is certainly clear that not all the railroad men are opposing the measure.

Mr. DRISCOLL. Is not Mr. Goss a representative of the conductors?

Mr. TOWNSEND. Yes.

Mr. DRISCOLL. They have nothing to do with these appliances one way or the other.

Mr. MANN. The gentleman does not know how they run a railroad, I guess.

Mr. TOWNSEND. Mr. Speaker, the fact of the matter is that a representative of the switchmen's organization and also a representative of the national conductors' order appeared before our committee favoring the bill, but outside of any influence of this kind there comes to us at this moment the question of whether we will aid in preserving life—whether we are going to do something that will lessen the number of accidents. We are not tying the hands of anybody for all time to come. We simply say that within six months the commission shall have full hearings, at which all gentlemen interested may appear and present their reasons in favor or in opposition, and the commission is also authorized to make more liberal its findings and to extend the time during which they shall be put in operation. But, Mr. Speaker, this is a righteous measure. There is nothing in opposition to it except jealousy and selfishness. I know what I am talking about. The gentleman in his letter says that he is in favor of standardizing some method to be used in place of the various methods now employed.

This bill will do that. This bill enables the commission to obtain all of the information which is necessary, and if these gentlemen are as active in presenting facts to the commission as they are in trying to prejudice this Congress and to create cowards who will not dare to act upon what their judgment dictates to be in the best interests of the country [applause]—if that is true, Mr. Speaker, if that is to be maintained, then I say, with the gentleman from Illinois [Mr. MANN], the blood——

Mr. STANLEY. Mr. Speaker, I call the gentleman to order.

Mr. TOWNSEND (continuing). Of these slaughtered men must be upon their heads.

Mr. STANLEY. Mr. Speaker, does the gentleman refer to Members of Congress by the use of that term?

Mr. TOWNSEND. Mr. Speaker, I am not referring to any specific Congressman in this matter, and I certainly would not refer to the gentleman from Kentucky [Mr. STANLEY], but I do state this: If gentlemen, without any other reason than the receipt of telegrams or letters, vote against this measure, it seems to me that they have not properly considered their duties as Members of Congress. This bill was reported unanimously by the members of the Interstate and Foreign Commerce Committee. The reasons that the hearings were not printed were, as the gentleman from Illinois [Mr. MANN] has said, because we have had hearings from time to time, and one gentleman after another has appeared, and time has been asked for, and the committee has been most liberal in granting it. So it has been running along from day to day, but the report of all the hearings has been fairly stated. I do not think anybody will dispute it, and with this statement, Mr. Speaker, it seems to me that the bill ought to pass.

Mr. COOK. Will the gentleman yield for a question?

The SPEAKER. The gentleman's time has expired. The question is on the motion of the gentleman from Michigan to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. SULZER and Mr. BARTLETT of Georgia) there were—ayes 150, noes 51.

Mr. DRISCOLL. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman demands the yeas and nays. As many as favor calling the yeas and nays will rise and stand until counted. [After counting.] Seven gentleman have arisen, not a sufficient number. The yeas and nays are refused.

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

SALARY OF SECRETARY OF STATE.

Mr. DALZELL. Mr. Speaker, I submit the following report (H. Rept. No. 2163) from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania submits the following report from the Committee on Rules, which the Clerk will read.

The Clerk read as follows:

House resolution 566.

Resolved, That the Committee on Election of President, Vice-President, and Representatives in Congress be, and hereby is, discharged from the consideration of the bill (S. 9295) in relation to the salary of the Secretary of State, and that the said bill shall at once be considered in the House, with forty minutes of debate to be divided between those favoring and those opposing the said bill, at the end of which debate the previous question shall be considered as ordered on the bill to a final passage without intervening motion or appeal.

Mr. DALZELL. Mr. Speaker, the bill referred to in the resolution just reported is the bill which was debated and voted upon by the House within the last two hours. At the beginning of business to-day the gentleman from West Virginia, chairman of the Committee on Election of President, Vice-President, and Representatives, moved to suspend the rules and pass the Senate bill, a bill relating to the salary of the Secretary of State. It was debated for forty minutes, a yea-and-nay vote was taken; and the result was that there were—yeas 179, nays 123. It is apparent, therefore, that it is the wish of the House that the bill should pass, and, pursuant to the wish of the House, expressed by this vote, the Committee on Rules have reported this rule, making it in order to consider now the same bill with twenty minutes' debate on either side, at the end of which time the previous question is to be considered as ordered and a vote taken.

Mr. OLMSTED. Mr. Speaker, may I ask the gentleman a question?

Mr. DALZELL. Certainly.

Mr. OLMSTED. Mr. Speaker, I did not understand from the reading of the rule whether the twenty minutes' debate on either side is to be on the adoption of the rule or on the adoption of the bill after the rule shall have been adopted.

Mr. DALZELL. The rule permits a debate of twenty minutes on a side on the adoption of the bill itself. I now ask for the previous question.

The SPEAKER. The gentleman from Pennsylvania demands the previous question.

The question was taken, and the Chair announced the ayes seemed to have it.

On a division (demanded by Mr. WILLIAMS) there were—ayes 115, noes 99.

Mr. WILLIAMS. Mr. Speaker, upon this question I ask for tellers.

The SPEAKER. The gentleman from Mississippi demands tellers.

Mr. DALZELL. Mr. Speaker, we might as well have the yeas and nays.

The SPEAKER. The gentleman from Pennsylvania demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 142, nays 123, answered "present" 5, not voting 116, as follows:

YEAS—142.

Adair	Dwight	Hull, Iowa	Payne
Alexander, N. Y.	Edwards, Ky.	Humphrey, Wash.	Perkins
Ames	Ellis, Mo.	Jenkins	Pollard
Andrus	Ellis, Oreg.	Kahn	Porter
Anthony	Englebright	Kennedy, Iowa	Pray
Bannon	Focht	Kennedy, Ohio	Reeder
Barchfeld	Fordney	Kinkaid	Reynolds
Barclay	Foss	Knapp	Robinson
Bartholdt	Foster, Vt.	Knopf	Rodenberg
Bartlett, Nev.	French	Knowland	Scott
Beale, Pa.	Gaines, W. Va.	Langley	Sherman
Bingham	Gillett	Law	Slemp
Bonynge	Graff	Lawrence	Smith, Cal.
Boutell	Greene	Longworth	Smith, Iowa
Brownlow	Gronna	Loud	Smith, Mich.
Burke	Guernsey	Loudenslager	Southwick
Burton, Del.	Haggott	Lovering	Sperry
Burton, Ohio	Hale	Lowden	Sulloway
Campbell	Hall	McGuire	Sulzer
Capron	Hamilton, Mich.	McKinney	Swasey
Cassel	Harding	McLachlan, Cal.	Tawney
Chaney	Haskins	McMillan	Taylor, Ohio
Chapman	Haugen	Madden	Thistlewood
Clayton	Hawley	Madison	Thomas, Ohio
Cole	Henry, Conn.	Malby	Tirrell
Conner	Hepburn	Martin	Townsend
Cook, Pa.	Higgins	Mondell	Volstead
Cooper, Pa.	Hill, Conn.	Moore, Pa.	Washburn
Cousins	Hinshaw	Mouser	Watson
Currier	Holliday	Mudd	Weems
Cushman	Howell, Utah	Norris	Wilson, Ill.
Dalzell	Howland	Olcott	Woodyard
Davis	Hubbard, Iowa	Olmsted	Young
Dawson	Hubbard, W. Va.	Overstreet	The Speaker
Douglas	Huff	Parker	
Draper	Hughes, W. Va.	Parsons	

NAYS—123.

Alexander, Mo.	Flood	James, Ollie M.	Randell, Tex.
Ansberry	Floyd	Johnson, Ky.	Rauch
Beall, Tex.	Foster, Ill.	Johnson, S. C.	Reid
Bell, Ga.	Fuller	Jones, Va.	Richardson
Birdsall	Fulton	Kimball	Rucker
Booher	Gaines, Tenn.	Kitchin	Russell, Mo.
Bowers	Gardner, Mass.	Lee	Russell, Tex.
Brantley	Garner	Lever	Ryan
Brodhead	Garrett	Lindbergh	Shackleford
Burleson	Gill	Livingston	Sheppard
Burnett	Gillespie	Lloyd	Sherley
Byrd	Gregg	McCall	Sherwood
Caldwell	Hackett	McCreary	Sims
Candler	Hamilton, Iowa	McDermott	Slayden
Carlin	Hamlin	McHenry	Smith, Mo.
Carter	Hammond	McLain	Smith, Tex.
Caulfield	Hardwick	Macon	Spight
Clark, Mo.	Hardy	Mann	Stafford
Cook, Colo.	Harrison	Marshall	Stanley
Cooper, Wis.	Hay	Maynard	Stephens, Tex.
Craig	Hayes	Miller	Stevens, Minn.
Cravens	Heflin	Moore, Tex.	Thomas, N. C.
Crawford	Helm	Nelson	Underwood
Davenport	Henry, Tex.	Nye	Waldo
De Armond	Hitchcock	O'Connell	Wallace
Denby	Hobson	Padgett	Watkins
Dixon	Houston	Page	Webb
Ellerbe	Howard	Patterson	Wiley
Ferris	Hughes, N. J.	Pou	Williams
Finley	Hull, Tenn.	Prince	Wilson, Pa.
Fitzgerald	Humphreys, Miss.	Rainey	

ANSWERED "PRESENT"—5.

Adamson	Burgess	Keifer	McMorran
Bartlett, Ga.			

NOT VOTING—116.

Acheson	Diekema	Jackson	Nicholls
Aiken	Driscoll	James, Addison D.	Pearre
Allen	Durey	Jones, Wash.	Peters
Ashbrook	Edwards, Ga.	Keliher	Pratt
Barnhart	Esch	Kipp	Pujo
Bates	Estopinal	Küstermann	Ransdell, La.
Bede	Fairchild	Lafean	Rhinock
Bennet, N. Y.	Fassett	Lamar, Fla.	Riordan
Bennett, Ky.	Favrot	Lamar, Mo.	Roberts
Boyd	Foelker	Lamb	Rothermel
Bradley	Fornes	Landis	Sabath
Broussard	Foster, Ind.	Laning	Saunders
Brundidge	Foulkrod	Lassiter	Small
Burleigh	Fowler	Leake	Snapp
Butler	Gardner, Mich.	Legare	Sparkman
Calder	Gardner, N. J.	Lenahan	Steenerson
Calderhead	Gilhams	Lewis	Sterling
Cary	Glass	Lindsay	Sturgiss
Clark, Fla.	Godwin	Lorimer	Talbott
Cockran	Goebel	McGavin	Taylor, Ala.
Cocks, N. Y.	Goldfogle	McKinlay, Cal.	Tou Velle
Cooper, Tex.	Gordon	McKinley, Ill.	Vreeland
Coudrey	Goulden	McLaughlin, Mich.	Wanger
Cox, Ind.	Graham	Moon, Pa.	Weeks
Crumpacker	Griggs	Moon, Tenn.	Weisse
Darragh	Hackney	Morse	Wheeler
Davidson	Hamill	Murdock	Willett
Dawes	Hill, Miss.	Murphy	Wolf
Denver	Howell, N. J.	Needham	Wood

So the previous question was ordered.

The Clerk announced the following additional pairs:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

Until further notice:

Mr. BURLEIGH with Mr. BROUSSARD.

Mr. DIEKEMA with Mr. KIPP.

Mr. PEARRE with Mr. NICHOLLS.

Mr. LANDIS with Mr. BRUNDIDGE.

Mr. HOWELL of New Jersey with Mr. AIKEN.

Mr. BATES with Mr. ASHBROOK.

Mr. JACKSON with Mr. WOLF.

Mr. WEEKS with Mr. TAYLOR of Alabama.

Mr. STURGISS with Mr. TALBOTT.

Mr. STEENERSON with Mr. SMALL.

Mr. SNAPP with Mr. SAUNDERS.

Mr. ROBERTS with Mr. SABATH.

Mr. MURDOCK with Mr. PETERS.

Mr. NEEDHAM with Mr. RANSDELL of Louisiana.

Mr. MCKINLAY of California with Mr. PRATT.

Mr. MCGAVIN with Mr. MOON of Tennessee.

Mr. KÜSTERMANN with Mr. LENAHAN.

Mr. GRAHAM with Mr. LEAKE.

Mr. GOEBEL with Mr. LASSITER.

Mr. GILHAMS with Mr. LAMB.

Mr. GARDINER of New Jersey with Mr. HACKNEY.

Mr. FOWLER with Mr. GORDON.

Mr. FOSTER of Indiana with Mr. GOLDFOGLE.

Mr. FASSETT with Mr. COX of Indiana.

Mr. FAIRCHILDS with Mr. COOPER of Texas.

Mr. DARRAGH with Mr. COCKRAN.

Mr. CALDERHEAD with Mr. CLARK of Florida.

Mr. CARY with Mr. WEISSE.

For this vote:

Mr. LORIMER (in favor) with Mr. BURGESS (against).

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken.

The SPEAKER. The Chair is in doubt.

The House divided; and there were—ayes 140, noes 123.

Mr. WILLIAMS. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 148, nays 129, answering "present" 6, not voting 103, as follows:

YEAS—148.

Alexander, N. Y.	Ellis, Mo.	Humphrey, Wash.	Perkins
Ames	Ellis, Oreg.	Kahn	Pollard
Andrus	Englebright	Kennedy, Iowa	Porter
Anthony	Focht	Kennedy, Ohio	Pray
Bannon	Fordney	Kinkaid	Reeder
Barchfeld	Foss	Knapp	Reynolds
Barclay	Foster, Vt.	Knopf	Robinson
Bartlett, Nev.	Gaines, W. Va.	Knowland	Rodenberg
Bates	Gardner, Mass.	Langley	Scott
Beale, Pa.	Gillett	Law	Sherman
Bede	Goebel	Lawrence	Slemp
Bingham	Graff	Longworth	Smith, Cal.
Bonynge	Greene	Loud	Smith, Iowa
Boutell	Griggs	Loudenslager	Smith, Mich.
Brownlow	Gronna	Lovering	Southwick
Burke	Guernsey	Lowden	Sperry
Burleigh	Haggott	McGuire	Sterling
Burton, Del.	Hale	McKinlay, Cal.	Sturgiss
Campbell	Hall	McKinney	Sulloway
Capron	Hamilton, Mich.	McLachlan, Cal.	Sulzer
Cassel	Harding	McMillan	Swasey
Chapman	Haskins	Madden	Tawney
Clayton	Haugen	Madison	Taylor, Ohio
Cole	Hawley	Malby	Thistlewood
Conner	Henry, Conn.	Martin	Thomas, Ohio
Cook, Pa.	Hepburn	Mondell	Tirrell
Cooper, Pa.	Higgins	Moore, Pa.	Townsend
Cooper, Wis.	Hill, Conn.	Mouser	Volstead
Currier	Hinshaw	Mudd	Washburn
Cushman	Holliday	Needham	Watson
Dalzell	Howell, Utah	Norris	Weeks
Davis	Howland	Olcott	Weems
Dawson	Hubbard, Iowa	Olmsted	Wilson, Ill.
Douglas	Hubbard, W. Va.	Overstreet	Wilson, Pa.
Draper	Huff	Parker	Woodyard
Dwight	Hughes, W. Va.	Parsons	Young
Edwards, Ky.	Hull, Iowa	Payne	The Speaker

NAYS—129.

Adair	Burnett	De Armond	Garrett
Aiken	Byrd	Denby	Gill
Alexander, Mo.	Caldwell	Dixon	Gillespie
Ansberry	Candler	Ellerbe	Gregg
Beall, Tex.	Carlin	Ferris	Hackney
Bell, Ga.	Carter	Finley	Hamilton, Iowa
Birdsall	Caulfield	Fitzgerald	Hamlin
Booher	Clark, Mo.	Flood	Hammond
Bowers	Cockran	Floyd	Hardwick
Brantley	Cook, Colo.	Foster, Ill.	Hardy
Brodhead	Craig	Fuller	Harrison
Broussard	Cravens	Fulton	Hay
Brundidge	Crawford	Gaines, Tenn.	Hayes
Burleson	Davenport	Garner	Heflin

Helm	Livingston	Prince	Smith, Tex.
Henry, Tex.	Lloyd	Rainey	Spight
Hitchcock	McCall	Randell, Tex.	Stafford
Hobson	McCreary	Rauch	Stanley
Houston	Macon	Reid	Stephens, Tex.
Howard	Mann	Richardson	Stevens, Minn.
Hughes, N. J.	Maynard	Rucker	Thomas, N. C.
Hull, Tenn.	Miller	Russell, Mo.	Tou Velle
Humphreys, Miss.	Moon, Tenn.	Russell, Tex.	Underwood
James, Ollie M.	Moore, Tex.	Ryan	Waldo
Johnson, Ky.	Murdock	Sabath	Wallace
Johnson, S. C.	Murphy	Saunders	Watkins
Jones, Va.	Nye	Shackleford	Webb
Kimball	O'Connell	Sheppard	Weisse
Küstermann	Padgett	Sherley	Wheeler
Lamb	Page	Sherwood	Williams
Lee	Patterson	Sims	
Lever	Peters	Slayden	
Lindbergh	Pou	Smith, Mo.	

ANSWERED "PRESENT"—6.

Adamson	Burgess	McDermott	McMorran
Bartlett, Ga.	Keifer		

NOT VOTING—103.

Acheson	Diekema	Hill, Miss.	Marshall
Allen	Driscoll	Howell, N. J.	Moon, Pa.
Ashbrook	Durey	Jackson	Morse
Barnhart	Edwards, Ga.	James, Addison D.	Nelson
Bartholdt	Esch	Jenkins	Nicholls
Bennet, N. Y.	Estopinal	Jones, Wash.	Pearre
Bennett, Ky.	Fairchild	Keliher	Pratt
Boyd	Fassett	Kipp	Pujo
Bradley	Favrot	Kitchin	Ransdell, La.
Burton, Ohio	Foelker	Lafean	Rhinock
Butler	Fornes	Lamar, Fla.	Riordan
Calder	Foster, Ind.	Lamar, Mo.	Roberts
Calderhead	Foulkrod	Landis	Rothermel
Cary	Fowler	Laning	Small
Chaney	French	Lassiter	Snapp
Clark, Fla.	Gardner, Mich.	Leake	Sparkman
Cocks, N. Y.	Gardner, N. J.	Legare	Steenerson
Cooper, Tex.	Gilhams	Lenahan	Talbott
Coudrey	Glass	Lewis	Taylor, Ala.
Cousins	Godwin	Lindsay	Vreeland
Cox, Ind.	Goldfogle	Lorimer	Wanger
Crumpacker	Gordon	McGavin	Wiley
Darragh	Goulden	McHenry	Willett
Davidson	Graham	McKinley, Ill.	Wolf
Dawes	Hackett	McLain	Wood
Denver	Hamill	McLaughlin, Mich.	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CANNON, and he voted "yea."

So the resolution was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. DRISCOLL with Mr. WILEY.

Mr. JENKINS with Mr. MCLAIN.

Mr. COUSINS with Mr. MCHENRY.

Mr. CHANEY with Mr. KITCHIN.

Mr. BURTON of Ohio with Mr. HACKETT.

Mr. BARTHOLDT with Mr. WEISSE.

For the balance of the day:

Mr. CARY with Mr. MCDERMOTT.

The result of the vote was announced as above recorded.

Mr. DALZELL. I yield ten minutes to the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. OLMSTED. Mr. Speaker, the opposition to this bill is based upon the proposition that it may affect the eligibility, or remove the ineligibility, of a distinguished Member of the Senate to an office in the Cabinet of the incoming President. The qualifications of that gentleman are so preeminent that the desire for his appointment far exceeds any desire on his part to hold the office. The constitutional provision is that—

> No Senator or Representative shall during the time for which he was elected be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time.

The judicial, legislative, and executive appropriation bill passed in 1907 increased the salaries of certain officers of the Government, including that of the Secretary of State, whose salary was increased from $8,000 to $12,000 per annum. This bill, if passed, will repeal the act which created that increase in salary and restore it to $8,000, which had been the salary of all Cabinet officers for many years prior to 1907.

I maintain that this pending measure if enacted will be not an evasion of, but in compliance with, the constitutional provision to which I have referred. In support of that proposition I have some precedents and some authorities which, in the arrangement of an orderly argument, I should keep until the last, but which, owing to the shortness of the time allowed me, I shall refer to at the outset so that they may not be overlooked.

In the first place, I will call attention to the provision of the constitution of the State of Indiana:

> That no person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit in the State other than a judicial office.

A gentleman who held a judicial office was elected for a second term. Before the first term expired he was elected to another office not judicial in its character and for which he was at the time of his election ineligible under the language of the constitution. He declined the election to the judicial office the second term, and refused to qualify. His election to the nonjudicial office took place, however, twenty-two days before the expiration of his first term.

He endeavored to administer the duties of the nonjudicial office, and legal proceedings were instituted to determine his right. The trial court held him ineligible under the constition, because he had been clearly so at the time of his election. But the supreme court, the highest court under the constitution of that State, held, in Smith *v.* Moore, reported in Ninetieth Indiana State Reports, at page 274, that the ineligibility was removed; first, by his declination to serve the second judicial term, and by the expiration of the first term after his election before the term of the nonjudicial office had begun. That decision, as applied to this case, Mr. Speaker, holds that a constitutional ineligibility may be constitutionally removed, and that the question of eligibility is to be determined as of the time when the appointment is made or attempted to be made according to the conditions as they then exist and not as they may have existed during some previous period of time.

Now, here is a precedent from the State of New Jersey. The constitution of that State is even more stringent than that of the Federal Constitution. It says:

> That no member of the senate or general assembly shall, during the time for which he was elected, be nominated—
>
> Be nominated—
>
> or appointed by the governor or by the legislature in joint meeting to any civil office under the authority of this State which shall have been created or the emoluments whereof shall have been increased during such time.

A former governor of that State, George T. Werts, being a member of the state senate, had voted for an increase in the salaries of the supreme judges. Before the expiration of his senatorial term it was desired that he should be elevated to the bench. The legislature thereupon reduced the salary to the original figure. Thereupon he was appointed, accepted, and served. No question was ever raised as to his right to serve nor as to the validity of his judicial acts.

There is a still more important precedent, to which I now call attention. The case is on all fours with the question under consideration here. The gentleman from West Virginia [Mr. GAINES] was about to refer to it this morning when the gavel fell.

Lot M. Morrill, of the State of Maine, was, in 1871, elected a member of the United States Senate. When a member of that body there was passed the act of March 3, 1873, which may be found in the Seventeenth Statutes at Large, page 486, increasing the salary of Members of Congress, Senators, Cabinet officers, the President, and others.

It increased the salaries of Cabinet officers from $8,000 to $10,000 per annum. In the succeeding year, by the act of 1874 (18 Stat. L., 4), that increase was repealed as to some of the offices, and it was enacted that the salaries of Cabinet officers—

> Shall be as fixed by the law in force at the time of the passage of said increasing act.

That is exactly what it is now proposed to do—make the salary of the Secretary of State precisely what it was before the passage of the act of 1907 making the increase.

This volume which I hold in my hand is the executive register of the United States, 1789–1902. On page 203 this entry appears, under the caption "Secretary of the Treasury:"

> Lot M. Morrill, of Maine, nominated, confirmed, and commissioned June 21, 1876; entered upon his duties July 7, 1876; served through the remainder of the administration.

During the term in the Senate to which he had been elected in 1871, and during the same term in which the salary of the Secretary of the Treasury had been increased from $8,000 to $10,000 in 1873, and reduced again to $8,000 in 1874, Mr. Morrill was nominated by President Grant to be Secretary of the Treasury; the nomination was confirmed by the Senate; he was commissioned, accepted, and served.

There were in the Senate at that time such eminent constitutional lawyers as George F. Edmunds, of Vermont; Roscoe Conkling, of New York; George S. Boutwell, of Massachusetts; and upon the other side of the Chamber such lawyers as Thomas F. Bayard, of Delaware; Allen G. Thurman, of Ohio; William Pinkney Whyte, of Maryland; William A. Wallace, a distinguished lawyer from Pennsylvania, as well as others whom I need not stop to name. Not one of them had the slightest doubt of the eligibility of Mr. Morrill after the salary of the office had been restored to its original figure. None of them, so far as the RECORD discloses, offered a single objection to his confirmation,

which, I believe, was unanimous in the Senate. To-day gentlemen, it seems to me, raise questions which are not worthy to be propounded, and make arguments unworthy of lawyers who are as well versed in the Constitution as some of these gentlemen are.

How do we construe a constitution? Why, the same as we do a statute. We consider first the old law, then the mischief, and then the remedy. Now, what was the old law? Why, there was no restraint upon the eligibility of Members of either branch to offices created by Congress, or the acceptance of salaries increased by Congress during their terms. It was urged in the constitutional debates on this proposition (I have the volume here) that in England great scandal had arisen from the fact that members aspired to Parliament for the very purpose of securing by their influence the creation of new offices, new embassies, new consulships, and other positions which they hoped to fill, and that they increased the salaries of positions to which they hoped to be appointed. Mr. Madison stated that even in his own State of Virginia he had noticed the undue favoritism of the legislature to its own membership. That was the mischief; the proposed remedy, the prevention of Members of either branch of Congress from accepting any office which during their membership that body had created or the emoluments of which it had increased.

The mischief certainly did not extend to a condition like this, where if an appointment is made from the present United States Senate to the Cabinet of the incoming President for the position of Secretary of State, the salary will not have been increased, but will be precisely the same salary that it was before the act of 1907 was passed. [Applause.] The case then will not be at all within the mischief and, by fair and rational construction, not within the remedy found in the constitutional provision.

Upon the question of constitutional construction, let me read you a few authorities.

I have here a monograph on "Constitutional Construction and Interpretation," prepared from a review of decisions of the Supreme Court of the United States construing and applying the Federal Constitution, by Thomas H. Calvert, from which I quote the following propositions:

> Upon the examination of every question of construction the great leading intent of the Constitution must be kept constantly in view, and it must be interpreted according to its true intent and meaning.

Which proposition is sustained by reference to numerous decisions of the Supreme Court of the United States, which, upon a hasty examination, I find are clearly in point.

And again:

> If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to conserve it.

Which proposition, also, is abundantly sustained by citations from decisions of our highest court.

And again:

> The Constitution, establishing a frame of government, declaring fundamental principles and creating a national sovereignty, is not to be interpreted with the strictness of a code of laws or of a private contract.

Then, we find this:

> Mischief to be remedied. In placing a construction upon any clause or part thereof, the mischief existing in the old law or conditions should be ascertained, and the clause construed as affording a remedy.

Innumerable decisions of the Supreme Court are cited in support of these several propositions, and if any gentleman cares to take the time to examine them, he will find that every authority cited is directly in point.

In Sutherland, one of the best works on construction, second edition, section 115, the following is laid down by the learned author:

> The courts with great unanimity enforce this constitutional restriction in all cases falling within the mischiefs intended thereby to be remedied. And, in cases not within those mischiefs, they construe it literally to give convenient and necessary freedom, so far as is compatible with the remedial measure, to the law-making power. They agree that whilst it is necessary to so expound this provision as to prevent the evils it was designed to remove, it is no less desirable to avoid the opposite extreme.

Apply those principles to the constitutional provision under discussion and we have no difficulty. The framers of the Constitution never for one moment intended that any Member of either branch of Congress should during the time of office for which he was elected be prevented from appointment to any office not created by Congress during the term and the salary of which was not greater than when his term of office began. Such a case was not within any mischief which Mr. Madison or any other of the framers of the Constitution had in mind. There could, in fact, be no mischief in such a situation or in an appointment to office under such conditions.

In the Legal Tender cases, reported in Tenth Wallace, Mr. Justice Strong, appointed from Pennsylvania, and who had previously served in the supreme court of that State, said:

> Nor can it be questioned that, when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of constructions, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered. And there are more urgent reasons for looking to the ultimate purpose in examining the powers conferred by a constitution than there are in construing a statute, a will, or a contract.

If any gentleman will take the trouble to read the decision of the Supreme Court in Briscoe *v.* Bank of Kentucky, reported in Eleventh Peters at page 257, he will find it to be a case in which the Supreme Court by its construction very clearly limited and restricted the language of the Constitution so as to cover only the mischief for which the court found the Constitution had intended to provide a remedy. The Constitution provides that—

> No State shall * * * emit bills of credit.

But the court, finding that the mischief was that before the adoption of the Constitution the States issued bills which circulated as money on the credit of the issuing State, by interpretation limited the language to providing against that mischief. The construction placed upon it by the court did not permit the prohibition to be extended to other matters, which might in some sense be termed "bills of credit."

In the so-called "contract-labor" case of the Church of the Holy Trinity *v.* United States, found in Thirty-sixth Lawyer's Edition of the Opinions of the Supreme Court of the United States, page 226, the Supreme Court unanimously held, as stated in the syllabus, that—

> A thing may be within the letter of the statute and yet not within the statute, because not within its spirit nor within the intention of the makers.

The opponents of this measure really make no argument. They simply point to the words, "shall have been increased during such time." They say that the salary was increased in 1907, and that, although it may be reduced again in 1909, the fact can not be avoided that there was an increase in 1907. The letter of the law, they say, renders a Senator of 1907 ineligible to appointment during the term for which he was elected. They give us no reason; they attempt no construction; they say that they cling to the words of the Constitution. There is, Mr. Speaker, an apt scriptural quotation which I heard fall from your lips in a recent parliamentary ruling: "The letter killeth, but the spirit maketh alive." That is an equivalent for the legal maxim usually quoted in Latin, but which being interpreted means, "He who sticks to the letter, sticks in the bark."

I maintain that even the letter, fairly interpreted, would not apply to this case. After this act is passed it can not be said that the salary of the Secretary of State has been increased, for the salary will then be precisely the same as it had existed for many years prior to the senatorial term which any member of that body was serving in 1907. No authority has been cited, none can be cited, nor any respectable precedent, in opposition to the position we take in this matter. Suppose, Mr. Speaker, that at the solemn joint assemblage held in this Hall on Wednesday last it had been officially declared that Mr. Bryan and not Mr. Taft had been elected President; suppose it had become known that Mr. Bryan proposed to appoint some eminent gentleman from the Senate or my friend from Missouri, for instance, Mr. CLARK, to a Cabinet position; and suppose that which is unsupposable, that this Republican Congress had been so mean that it wanted to embarrass the incoming Democratic administration, or that it had some feeling against some Member of either House whom that Democratic President desired to appoint to the head of any of the executive departments; and then suppose that this Republican Congress should to-day pass an act increasing the salaries of all Cabinet officers; suppose that it should next week repeal that act—would any gentleman upon that side of the Chamber be found either before or after or upon the 4th of March contending that by that procedure the whole body of Senators and the entire membership of the House of Representatives had been rendered ineligible to appointment?

Would not every gentleman upon that side of the Chamber then hold, as I hold now and as the authorities hold and the precedents establish, that the question of eligibility must be determined by conditions as they may exist at the time of the appointment? Would they not hold, as I now hold, that the constitutional provision is not to be given a narrow, petty, unfair, technical construction, at variance with all the rules of construction to which from the very foundation of the Government the courts

have adhered? Would they not hold, as I hold, that it can not be made to extend beyond the mischief which the framers of the Constitution had in mind and applied to a situation wholly outside of that mischief—to a situation entirely free from mischief and to which no one inside or outside of the Constitutional Convention ever intended or dreamed that it should be made to apply?

But, Mr. Speaker, this whole discussion is academic. This question of eligibility is one over which this House has no jurisdicton. The Secretaryship of State is one of those positions to which the Constitution specifically provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint." Before that office can be filled there must be a nomination. Then there must be the advice and consent of the Senate, and only after that can the appointment be made by the President.

While the question of eligibility after the passage of this act is one upon which I entertain no doubt whatever, it is, nevertheless, one which the House of Representatives can not determine. That question is for another body, whose view of the matter may be inferred from the fact that it has sent this bill to us by an unanimous vote. The bill itself, simply repealing the act of 1907, in so far as it applies to this particular office, is clearly within the power of the House to pass. No gentleman denies that. Let us then proceed, leaving it to our newly elected President, himself a lawyer of renown and a jurist of great distinction, to make any nomination he sees fit, and to the Senate to pass upon any nomination he may make. [Applause.]

Mr. Speaker, I submit that this House may safely and constitutionally enact this bill to-day, and the future, I think, may safely be left to take care of itself. [Applause.]

Mr. WILLIAMS. Mr. Speaker, the gentleman from Pennsylvania acted wisely in going to New Jersey for a precedent for the proposed legislation. He could hardly have found a violation of constitutional law on so slight a ground outside of New Jersey, not even in a South American republic. [Laughter.] The only respectable authority or precedent that has been presented to bolster up the other side of this case is the Morrill case. But gentlemen must remember that that case never got into a court of justice, and never judicially was passed upon. Gentlemen must furthermore remember that Senator Morrill was confirmed by the Senate acting under "Senatorial courtesy," which, so far as I can learn, overrides all sorts of bars, constitutional and otherwise.

Mr. Speaker, this is a clear, plain, palpable, obvious, manifest case of a violation of a direct and express constitutional inhibition which attaches upon the happening of certain facts. These facts have happened, and not even the Parliament of Great Britain, much less the Congress of the United States, can repeal a fact.

Now, gentlemen take the position that by repeal they can do away with the motive, corrupt or possibly corrupt in the opinion of our forefathers, contrary to public policy at any rate, in the mind of a Senator; that they have answered the need of the case. The Constitution does not say that a Senator who votes for an increase shall be prohibited from holding certain offices, but that any Senator who is a member of the Senate that votes for the increase during his term shall be prohibited. Thus it is not a question of motives. It is a question of public policy. Nobody questions Senator KNOX's motive.

But, if their position were correct, you do not take away the motive in this case by the repeal; not even then. If you pass this repealing act, then, upon the same logical principles that support it, assuming for the moment that they are logical, Congress would have the right upon the 5th of March to restore the salary of the Secretary of State to the figure that it is now degraded from.

If Congress did not want to do that because it wanted to make a show of obeying the spirit of the Constitution, it could, and probably would, wait until two years had expired and the period of the term of Senator KNOX, in the Senate, had expired, and then restore the salary to the figure provided in the late act, which we are now repealing. So that the only difference would be this: Instead of the Senator getting an increase of salary for four years, he would get it for two years—precisely the same in principle, though different in degree.

Mr. Speaker, this is a case where an inhibition attaches on the happening of certain facts. Those facts have happened. That salary has been increased by that Senate of which Mr. KNOX was a member and during the term for which he was elected. It makes no difference whether it shall subsequently be decreased or not any more than it makes any difference whether—which will probably be the case—it shall be subsequently reincreased. The Constitution expresses a broad general policy. If gentlemen will pardon me, I will read a line from a speech made by the distinguished gentleman from North Carolina [Mr. WEBB] this morning, which seems to me to express the fact:

> The people and Mr. KNOX can not be placed in statu quo by passing this bill. The object of the clause of the Constitution in question was, according to that great judge, Story, "to take away, as far as possible, any improper bias in the vote of the Representative and to secure to the constituents some solemn pledge of disinterestedness." The repeal of the law increasing the salary at this time, two years after its enactment, can not affect the motives of the interest or noninterest of the Senator at the time the bill was passed. We can not know, nor can we inquire, nor does it matter, what a Senator's motives were in voting for an increase of the emoluments or the creation of a new office, and therefore the fathers, when they framed the Constitution, pronounced in that instrument the irrebuttable disqualification the moment the offending event happened.

You can not repeal a fact, whatever other power of repeal you may have. Now, gentlemen, early in the history of the country a certain elector from the State of Michigan was disqualified because a man was a deputy postmaster. There was appointed a committee to report to the Senate. Amongst them was Felix Grundy, of Tennessee, Henry Clay, of Kentucky, and Silas Wright, jr., of New York. I need not dwell, because I have not the time, upon the ability of these men. They reported:

> The committee are of the opinion that the second section of the second article of the Constitution, which declares that "no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector," ought to be carried in its whole spirit into the rigid execution, in order to prevent officers of the General Government from bringing their official power to influence the election of President and Vice-President of the United States.

Furthermore, they say that a resignation—mark you now, of the office of deputy postmaster—that "resignation would not entitle him to vote as an elector under the Constitution." On February 4 these resolutions were considered and were agreed to by the House and by the Senate. In other words, the ineligibility had attached and that was the end of it. This case, unlike the Morrill case, was not passed over sub silentio.

Here is an opinion from Attorney-General Brewster in the Kirkwood case. Kirkwood was elected and qualified as Senator from Iowa for a term which would expire in March, 1883. He resigned in March, 1881. Keep that in mind. He resigned in March, 1881, to accept the position of Secretary of the Interior, which office he also resigned in the latter part of the same year. "Since then"—mark that "since then," I am reading from Brewster's opinion—"by act of May 15, 1882, the office of tariff commissioner was created." "Advised: That the second clause of section 6 of the first article of the Constitution disqualifies Kirkwood for appointment to such office."

That is a case where the man was a Member of the Senate and elected to it and had resigned from it before the Senate voted to create the office to which he was to be appointed, and yet Attorney-General Brewster promptly ruled that he was disqualified because he had been elected a member of the body which, after his resignation, created the office, and he uses this language:

> It is not necessary to consider the question of the policy which occasioned this constitutional prohibition. It must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear in my opinion, and disables him from receiving the appointment.

Mr. Speaker, I had not proposed to say a word upon this question. Nobody appreciates more than I do the appearance, at any rate, of ungraciousness in the opposition to this measure. I am perfectly willing for Judge Taft to have whomsoever he pleases in his Cabinet. I would be glad to see him get Mr. KNOX there if he wants him, provided he gets him without my complicity, but I am, as a Member of the House, forced to vote; and, because this question was referred to the Committee on Rules, of which I am a member, I have been forced to make a short speech.

What I have said is not all. I would like to have some of you examine the Hill case, which went to the supreme court of the State of Washington, in Second Washington. In the territorial statutes there was a provision that no officer of the United States Army should hold any civil office there. Desirous that Hill, who was an officer of the United States, should hold an office, the legislature repealed the statute in order that he might be given the office. The case went to the supreme court of the State, and the supreme court ruled that his ineligibility had attached, as a matter of fact, and it could not be removed.

Mr. Speaker, how much time have I occupied?

The SPEAKER. The gentleman has eight minutes remaining.

Mr. WILLIAMS. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. CLARK]. Before I sit down I want to express my regret to Members to whom I had promised time. I thought I would talk only about two or three minutes.

Upon that supposition I had parceled the time out, and I find I shall have to cut it short of what I promised. I did not know I was occupying so much time.

Mr. CLARK of Missouri. Mr. Speaker, I am a personal friend of Judge Taft. I wish him success and happiness in his presidential career. I think, as I said in my former remarks, that he has a right to select anybody for his Cabinet that he desires, provided the man has the qualifications fixed by the Constitution; but he has no right, moral or legal, to appoint to his Cabinet or to any other office a man who is disqualified by constitutional provision as is Senator KNOX. I said about three hours ago in this presence that the real thing which this bill attempts to do is unconstitutional. A few years ago our lamented friend Timothy Campbell, of New York, of blessed memory, startled the country and set it in a roar by propounding the immortal question to President Cleveland. "What is the Constitution betwixt friends?" I say that Tim Campbell stands vindicated as a great constitutional lawyer if we pass this bill. [Applause and laughter.] I have never undertaken to exploit myself as a constitutional lawyer, and in view of the way in which certain constitutional lawyers are speaking and acting, I am glad that I have not; but I do claim to understand plain English, and the plain English in this case bars Senator KNOX from the Secretaryship of State. I have no objection to Mr. KNOX being Secretary of State if he can qualify, but he stands, if he is made Secretary of State, third in the line to the presidential succession. He is disqualified for the Presidency until March 4, 1911, when his present term expires, for two reasons. The first is because he is disqualified to be Secretary of State, and the second is that during the senatorial term which he is now serving the emoluments of the President of the United States have been increased by the law enacted by the Fifty-ninth Congress, and during the senatorial term for which Mr. KNOX was elected, giving the President $25,000 per annum for traveling expenses. He is likely to be disqualified for a third reason, and that is that the bill now pending in the Senate to increase the salary of the President of the United States is almost certain to be passed. I say that no man can afford to be inducted into the office of President of the United States, and the American people can not afford to have him inducted into that office, when there rests upon his title to it the slightest cloud. [Applause.]

Clearly Senator KNOX is ineligible to the Presidency prior to March 4, 1911, because the President's "emoluments" were increased by the law enacted during the senatorial term which Senator KNOX is now serving, giving the President $25,000 per annum for traveling expenses. Should the Congress undertake to qualify Senator KNOX for the Presidency by repealing the statute giving that extra $25,000 per annum, or should the Congress, flying in the face of all the lexicographers, in its mania for qualifying Senator KNOX, enact a law declaring that the $25,000 allowance for traveling expenses did not increase the "emoluments" of the President, he would still be ineligible to the Presidency prior to the expiration of his senatorial term, March 4, 1911, provided this Congress enacts into law the pending Senate bill to raise the President's salary to $100,000. Suppose, notwithstanding all this, President Taft nominates Senator KNOX for Secretary of State and the Senate confirms the nomination, and unfortunately both President Taft and Vice-President SHERMAN should die and Mr. Secretary of State KNOX should essay to act as President, notwithstanding his triple disqualification, and the Secretary of the Treasury, who stands next in line of the presidential succession, should institute ouster proceedings against him, as both his duty and his ambition would force him to do, we would have a fine kettle of fish, would we not? Such a state of affairs would be distracting, if not positively calamitous. No man can calculate the evil consequences of such a situation.

We can not rationally assume that neither the Secretary of the Treasury nor any other Cabinet officer in the line of succession would not institute ouster proceedings, for the glittering prize of the Presidency is very tempting to poor mortals.

Mr. Speaker, it will not do to try to sneer or shunt Senator KNOX's ineligibility to the Presidency out of this case, because you yourself gave it prominence when you referred these bills to make him eligible to the Secretaryship of State to the Committee on the Election of President and Vice-President. That was the only excuse you had for referring them to that committee instead of to the Committee on the Judiciary, to which they should have been referred.

The words of the Constitution which bar Senator KNOX have been frequently construed and always to uphold the bar. Only two or three need be cited here. Governor Kirkwood, of Iowa, was a United States Senator. He resigned to become Secretary of the Interior, which office he also resigned. After that he was nominated to be a tariff commissioner, an office created during the senatorial term for which he had been elected, but after he had resigned from the Senate. The question of his eligibility arose, and Attorney-General Brewster, a brilliant and eminent lawyer of the same political party as the President and Governor Kirkwood, held that Governor Kirkwood was ineligible.

During President Cleveland's second term, a few days before the end of a senatorial term for which Senator Ransom, of North Carolina, had been elected, our diplomatic representative to Mexico was promoted from minister to ambassador and the salary increased to $17,500. President Cleveland promptly nominated Senator Ransom for that post, and the Senate as promptly confirmed the nomination. The question of his eligibility was raised and the Attorney-General declared him ineligible during the senatorial term for which Senator Ransom had been elected. President Cleveland then waited till after the 4th of March of that year, when the senatorial term for which Senator Ransom had been elected expired, which expiration removed the bar, and reappointed Senator Ransom as ambassador to Mexico.

A few days before the close of the Fifty-seventh Congress a new district judgeship was created for Minnesota and Hon. Page Morris, then a Representative in Congress, aspired to the position, and the President was willing to appoint him; but the question of his eligibility was raised and referred to Hon. PHILANDER CHASE KNOX, of Pennsylvania, then Attorney-General, who held that Morris was ineligible until the term for which he was elected as a Representative in Congress had expired. Morris's term in Congress expired in a few days thereafter, whereupon he was nominated and the nomination was confirmed. So, Senator KNOX is estopped by his own construction of the Constitution from accepting the Secretaryship of State.

It is claimed here that because Senator Morrill, of Maine, was appointed Secretary of the Treasury and served in that office during the senatorial term for which he had been elected, and during which term the salary of the Secretary of the Treasury had been increased and the increase had also been repealed, constitutes a precedent. It does no such thing, because for some reason the question of his eligibility was never raised. Anyway it is a well-known fact that when a Senator or ex-Senator is nominated for any office the nomination is immediately confirmed without reference to any committee by reason of that mysterious custom called "senatorial courtesy," which overrides the Constitution, laws, and every other thing known among men.

I herewith incorporate a luminous editorial from the St. Louis Republic:

MR. KNOX AND THE CONSTITUTION.

A constitutional provision of such clarity that it may be understood by a child stands between PHILANDER C. KNOX and the position of Secretary of State, for which he has been selected by President-elect Taft. Senator KNOX was designed for the chief position because of his conspicuous fitness, and his acceptance was the cause of much satisfaction both to Mr. Taft and the country. But it is very plain that the Constitution forbids a Senator who has voted to increase the emoluments of that office from becoming the incumbent of it.

But—and the argument started immediately—a way will be found to avoid the provision of the Constitution. Mr. KNOX himself was very much disconcerted. His friends are most solicitous. The prevailing tone of the dispatches is that it is no problem which the constitutional experts, who should be called "constitutional sharps," may not solve. One suggestion is that the salary of the Secretary of State be reduced again to $8,000. Other suggestions will doubtless be offered.

There is evidenced neither a desire nor an intention to obey the Constitution. It is assumed that Mr. Taft will suggest a way of dodging the inhibition. If Mr. Taft does not abandon the appointment of Mr. KNOX he will miss a rare opportunity to demonstrate his respect for the fundamental law. When our Presidents and Presidents-elect, our Senators and Representatives, our political leaders and our newspapers all view a constitutional direction as something of so little value that it is merely an incentive for ingenious plans to avoid it, we have carried our disrespect for law to the limit of sufferance.

The Constitution becomes in fact what Mr. Roosevelt has sought to make it—a ridiculous collection of obsolete saws hatched in the brains of theorizing patriarchs. If Mr. KNOX is not the first to decline the office absolutely, we hope that Mr. Taft will promptly save him that trouble.

This attempt to render Senator KNOX eligible to the Secretaryship of State is not only unconstitutional, but is also preposterous.

Where do we leave ourselves if we pass this bill and pass the bill pending in the Senate? You will then have the preposterous situation of the Undersecretary of State—God save the mark! It is so English, don't you know—you will have the ridiculous situation of the Undersecretary of State drawing $10,000 a year and his superior officer, the Secretary of State, drawing only $8,000 a year. By passing this bill we are making ourselves the laughing stock of every intelligent man on the face of the earth, and you can not get away from that proposition. [Applause.]

I am not going to further argue the constitutional question, because I have not time, and it has been well done, anyway, by others. It is mere child's play, and there never has been but one case in the history of the United States where anybody undertook to change a constitution by a statute or a resolution, and that has been a standing joke ever since 1820. The Congress of the United States passed a resolution, the most ridiculous thing ever put into print, that Missouri should not be admitted into the Union until the legislature of Missouri, by "solemn ordinance"—whatever that may mean—should declare that a certain clause in the constitution of Missouri should never be put into effect!

The constitution of Missouri can not be changed except by a vote of the people, but Missourians were so anxious to get into the Union that they went through the preposterous farce of calling the legislature together and passing a "solemn ordinance" that that obnoxious clause of the constitution should never be put into effect, and then like men entered their solemn protest against the idiocy of the performance. That congressional resolution and that "solemn ordinance" constitute "the second Missouri compromise." It has always been stated that Henry Clay, author of that resolution in Congress which required the legislature of Missouri to do that ridiculous thing, always regarded it as the most stupendous joke of the age, and the great Kentuckian was correct. Now, here, after the lapse of nearly a hundred years, we are repeating that condemned performance by passing this act. I regret the thing has ever come up. I would not throw a straw in the way of Judge Taft and the success of his administration. I hope it will be successful until the 4th day of March, 1913, and I hope on that day at high noon he will retire from that high office in favor of a Democrat and spend many years in the enjoyment of his reputation as a political sage. [Loud applause.]

Mr. WILLIAMS. Mr. Speaker, I yield whatever time I have remaining to the gentleman from Missouri [Mr. CAULFIELD].

Mr. CAULFIELD. Mr. Speaker, it seems to me that we are about to perpetrate a legislative absurdity. It is absurd to provide that the highest Cabinet officer, the Secretary of State, should receive the smallest salary. It is absurd after we have raised the salaries of all of the Cabinet officers, on the theory, I presume, that the expense of entertaining had increased, to now decrease the salary of the very office the duties of which really call for entertaining. It seems to me absurd after raising the salary on the theory that the best talent could not be obtained at $8,000 a year to now reduce the salary to that amount for the very purpose of getting what is assumed to be the best talent. [Applause.]

But the real spectacle for men is that of the American Congress sitting here and changing the law to meet the exigencies of a single person. I can not approve of that sort of legislation. It is unjustly said that there is one law for the rich and another for the poor. Let it not be justly said that the American Congress will change the law of the land for the benefit of only one man. I do not believe in that. It has been repeatedly said that the incoming administration shall be distinguished for its devotion to the law. I shall, indeed, feel disappointed if this is a sample of it, for it seems more like a sample of constitutional jugglery or, at least, legislative favoritism. [Applause.] I hope that we will vote down this bill and thereby say to the people that before the House of Representatives of the United States all men are equal. Gentlemen, I thank you. [Applause.]

Mr. DALZELL. Mr. Speaker, I have seven minutes remaining, I think, and I will yield the balance of my time to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Speaker, I voted against the proposition to order the previous question upon this rule, and voted against the adoption of the rule. I had nothing to do with bringing this bill before the House originally under the motion to suspend the rules and pass it. I have had nothing to do with bringing it before the House now. It is, however, before the House and is to be voted upon, and the question is whether one should vote aye or no upon it. That is a question which I think every gentleman shall have to settle for himself, and claiming for myself and exercising the same rights that everybody else has and everybody else exercises, I expect to vote for its passage, as I did when it was put upon its passage under the motion to suspend the rules.

As I said a little while ago, it appears to me that no constitutional question is involved. The question is one of propriety, about which I concede there may very well be differences of opinion. I have no fault to find and no quarrel with anyone who entertains a different opinion from that which has guided my vote upon this proposition. Much can be said against it and perhaps not much for it, though I think quite enough to warrant one in casting his vote upon that side. Suppose, for illustration, that Mr. Bryan had been elected President, and that Mr. Bryan had selected a Cabinet minister out of the Senate, and the same question of eligibility arose at the same time and in the same way, and that the same question of amending the salary act was now before the House. I think no one could doubt that I would vote in that instance, providing I could do it constitutionally, to let Mr. Bryan have in his Cabinet the man of his choice by the passage of such a measure as this.

The principle involved is precisely the same, no matter who is to be President, no matter who is to be Secretary of State. The question is one of legislative power and authority and of legislative propriety. If this question had arisen in the earlier days of this session, so that there would be abundant or even reasonable time within which to construct a Cabinet to the satisfaction of the incoming President, I would have voted against the passage of such a bill as this. I do not mean by this to say or to suggest that it is impossible to find in these United States or in either one of the great parties in it, soon or at once, a competent man for this office, or for any office; but the incoming President, having arranged his Cabinet and having selected the gentleman whom he desires to place at its head, it appears to me that we can safely vote to pass this bill in order to remove the obstruction which exists, and which, if the appointment were to be made now, would be insuperable against the placing of that gentleman in the Cabinet.

That may not be a very broad or a very statesmanlike view, but I think it is a liberal, human view, a natural view in treating questions as questions arise, and as this question is presented.

What particular principle that lies at the foundation of this Government, or that any of us need care to preserve, is involved in this legislation? In what particular will the spirit of the Constitution be disregarded or its letter be affected, or in what particular will there be, from the example, danger of an invasion of the constitutional rights of anybody or of the destruction of the constitutional guaranties of anybody? In my judgment, the issue has been magnified far beyond its real, inherent importance.

The question now is whether we shall pass this bill. If we do pass the bill, then when the 4th of March comes around and the time for the appointment of the Secretary of State arrives, there will not be upon the statute books or in force any law by which the emoluments of that office are in any degree increased.

And recurring to what I said before, the matter of time has nothing to do with the principle involved, so far as the power or right to enact this legislation goes. If the law had been upon the statute books a single day and had been repealed the next day, there would be just as much of inherent disqualification, if there be any inherent, ineradicable disqualification after the passage of this act. I take it when it comes to the appointment of a person to an office the question is as to his qualification at that time. The disqualification must be at the time of appointment; that the emoluments of the office, increased while he held the congressional office for a term not yet ended, remain increased at the time of the appointment. "Shall have been increased" carries the increase down to the time of the appointment. The thing to be guarded against, the evil to be met, is giving the appointee from Congress the increased salary or emoluments of office.

The legislation is peculiar and extraordinary. It is not necessary to admit that or to deny it. That is evident to anyone and everyone. It is a peculiar case, and the question of propriety is whether or not one is warranted or justified in voting for the passage of this bill in this peculiar case.

Now, what good would come from defeating it? What good could come from defeating it? In that event Senator KNOX could not be appointed to the Cabinet. What great policy would be advanced?

Mr. COCKRAN. Equality of the law.

Mr. DE ARMOND. Equality of the law? What is the equality of the law about which the gentleman talks? The equality of the law that existed before and that does not exist when you act or the equality of the law enforced at the time of the action when the law is to be tested and tried? [Applause.]

The SPEAKER. The gentleman's time has expired.

The question is on the third reading of the Senate bill.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. CLARK of Missouri. Division!

The House divided; and there were—ayes 178, noes 121.

Mr. WILLIAMS. Upon that question I demand the yeas and nays. [After a pause.] A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. Is this upon the third reading of the bill?

The SPEAKER. This is upon the third reading of the bill.

Mr. WILLIAMS. Then I withdraw the demand.

So the bill was ordered to be read a third time, and was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. WILLIAMS. Upon this question I ask for tellers.

Mr. DALZELL. Let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 116, answered "present" 7, not voting 90, as follows:

YEAS—173.

Adair	Dwight	Kahn	Peters
Alexander, N. Y.	Edwards, Ky.	Kennedy, Iowa	Pollard
Ames	Ellis, Mo.	Kennedy, Ohio	Porter
Andrus	Ellis, Oreg.	Kinkaid	Pray
Anthony	Englebright	Kipp	Reeder
Bannon	Fitzgerald	Knapp	Reynolds
Barchfeld	Focht	Knopf	Richardson
Barclay	Fordney	Knowland	Robinson
Bartholdt	Foss	Langley	Rodenberg
Bartlett, Nev.	Foster, Vt.	Lassiter	Sherman
Bates	French	Law	Slemp
Beale, Pa.	Gaines, W. Va.	Lawrence	Smith, Cal.
Bingham	Gillett	Lee	Smith, Iowa
Bonynge	Goebel	Lever	Smith, Mich.
Boutell	Goldfogle	Longworth	Southwick
Boyd	Graff	Loud	Sperry
Bradley	Greene	Loudenslager	Spight
Broussard	Griggs	Lovering	Sterling
Brownlow	Gronna	Lowden	Sturgiss
Burke	Guernsey	McGuire	Sulloway
Burleigh	Hackney	McHenry	Sulzer
Burton, Del.	Haggott	McKinlay, Cal.	Swasey
Burton, Ohio	Hale	McKinney	Tawney
Campbell	Hall	McLachlan, Cal.	Taylor, Ala.
Capron	Hamilton, Mich.	Madden	Taylor, Ohio
Cassel	Hammond	Madison	Thistlewood
Chapman	Harding	Malby	Thomas, Ohio.
Clayton	Haskins	Martin	Tirrell
Cocks, N. Y.	Hawley	Maynard	Tou Velle
Cole	Henry, Conn.	Mondell	Townsend
Conner	Higgins	Moon, Tenn.	Volstead
Cook, Pa.	Hill, Conn.	Moore, Pa.	Washburn
Cooper, Pa.	Hinshaw	Mouser	Watkins
Cooper, Wis.	Holliday	Mudd	Watson
Craig	Howard	Needham	Weeks
Crawford	Howell, Utah	Norris	Weems
Currier	Howland	Olcott	Wilson, Ill.
Cushman	Hubbard, Iowa	Olmsted	Wilson, Pa.
Dalzell	Hubbard, W. Va.	Overstreet	Woodyard
Davis	Huff	Padgett	Young
Dawson	Hughes, W. Va.	Parker	The Speaker
De Armond	Humphrey, Wash.	Parsons	
Douglas	Johnson, Ky.	Payne	
Draper	Jones, Va.	Perkins	

NAYS—116.

Aiken	Edwards, Ga.	Houston	Rainey
Ansberry	Ellerbe	Hughes, N. J.	Randell, Tex.
Ashbrook	Ferris	Hull, Tenn.	Rauch
Beall, Tex.	Finley	Humphreys, Miss.	Reid
Bede	Flood	James, Ollie M.	Roberts
Bell, Ga.	Floyd	Johnson, S. C.	Rucker
Booher	Foster, Ill.	Kimball	Russell, Mo.
Bowers	Fuller	Kitchin	Russell, Tex.
Brantley	Fulton	Küstermann	Ryan
Brodhead	Gaines, Tenn.	Lenahan	Sabath
Brundidge	Garner	Lindbergh	Shackleford
Burleson	Garrett	Livingston	Sheppard
Burnett	Gilhams	Lloyd	Sherley
Byrd	Gill	McCall	Sherwood
Caldwell	Gillespie	McCreary	Sims
Candler	Gordon	Macon	Slayden
Carlin	Gregg	Mann	Smith, Mo.
Carter	Hackett	Marshall	Smith, Tex.
Caulfield	Hamlin	Miller	Stafford
Clark, Mo.	Hardwick	Moore, Tex.	Stanley
Cockran	Hardy	Murdock	Stephens, Tex.
Cook, Colo.	Harrison	Murphy	Stevens, Minn.
Cooper, Tex.	Hay	Nelson	Thomas, N. C.
Cox, Ind.	Hayes	Nye	Underwood
Cravens	Heflin	O'Connell	Waldo
Darragh	Helm	Page	Wallace
Davenport	Henry, Tex.	Patterson	Webb
Denby	Hitchcock	Pou	Wheeler
Dixon	Hobson	Prince	Williams

ANSWERED "PRESENT"—7.

Adamson	Chaney	Hull, Iowa	McGavin
Burgess	Haugen	Keifer	

NOT VOTING—90.

Acheson	Davidson	Gardner, Mass.	Keliher
Alexander, Mo.	Dawes	Gardner, Mich.	Lafean
Allen	Denver	Gardner, N. J.	Lamar, Fla.
Barnhart	Diekema	Glass	Lamar, Mo.
Bartlett, Ga.	Driscoll	Godwin	Lamb
Bennet, N. Y.	Durey	Goulden	Landis
Bennett, Ky.	Esch	Graham	Laning
Birdsall	Estopinal	Hamill	Leake
Butler	Fairchild	Hamilton, Iowa	Legare
Calder	Fassett	Hepburn	Lewis
Calderhead	Favrot	Hill, Miss.	Lindsay
Cary	Foelker	Howell, N. J.	Lorimer
Clark, Fla.	Fornes	Jackson	McDermott
Coudrey	Foster, Ind.	James, Addison D.	McKinley, Ill.
Cousins	Foulkrod	Jenkins	McLain
Crumpacker	Fowler	Jones, Wash.	McLaughlin, Mich.
McMillan	Pujo	Small	Weisse
McMorran	Ransdell, La.	Snapp	Wiley
Moon, Pa.	Rhinock	Sparkman	Willett
Morse	Riordan	Steenerson	Wolf
Nicholls	Rothermel	Talbott	Wood
Pearre	Saunders	Vreeland	
Pratt	Scott	Wanger	

So the bill was passed.

The following additional pairs were announced:

Until further notice:

Mr. BENNETT of Kentucky, with Mr. GOULDEN.

Mr. SCOTT with Mr. LAMB.

For the balance of the day:

Mr. HULL of Iowa with Mr. RANSDELL of Louisiana.

On this vote:

Mr. HEPBURN (in favor) with Mr. BIRDSALL (against).

Mr. HAUGEN with Mr. HAMILTON of Iowa.

The SPEAKER. Call my name.

The name of Mr. CANNON was called, and he voted "yea."

Mr. CAMPBELL. Mr. Speaker, am I recorded as voting?

The SPEAKER. The gentleman is not recorded.

Mr. CAMPBELL. I was present through both roll calls and listening for my name.

The SPEAKER. And did not hear it?

Mr. CAMPBELL. And did not hear it.

The SPEAKER. Call the gentleman's name.

The name of Mr. CAMPBELL was called, and he voted "yea."

The result of the vote was then announced as above recorded.

On motion of Mr. OLMSTED, a motion to reconsider the vote by which the bill was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment joint resolution and bills of the following titles:

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned bronze cannon and cannon balls to the city of Bedford, Ind.;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, S. C.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.; and

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H. R. 13851) providing for the purchase of a site and the erection of a new immigration station thereon at the city of Boston.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H. J. Res. 219) to accept the gift of Constitution Island, in the Hudson River, New York.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 25806. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 26461. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 24831. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 25391. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 8628. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to certain widows and dependent relatives of such soldiers and sailors;

S. 8629. An act granting pensions and increase of pensions to certain soldiers and sailors of wars other than the civil war and certain widows and dependent relatives of such soldiers and sailors; and

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed joint resolution and bills of the following titles:

On February 11, 1909:

H. J. Res. 247. Joint resolution relating to the celebration of the one hundredth anniversary of the birth of Abraham Lincoln and making the 12th day of February, 1909, a legal holiday, and for other purposes.

On February 13, 1909:

H. R. 13809. An act for the relief of Charles S. Blood; and

H. R. 24635. An act to create a new division in the middle judicial district of the State of Tennessee.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolution:

H. R. 6252. An act to promote the administration of justice in the navy;

H. R. 7474. An act granting a pension to Charles H. Balch and others;

H. R. 18726. An act for the relief of Wyatt O. Selkirk;

H. R. 20385. An act to enable the Omaha and Winnebago Indians to protect from overflow their tribal and allotted lands located within the boundaries of any drainage district in Nebraska;

H. R. 21458. An act authorizing sales of land within the Coeur d'Alene Indian Reservation to the Northern Idaho Insane Asylum and to the University of Idaho;

H. R. 26746. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors;

H. R. 27069. An act to authorize the Secretary of War to donate two condemned brass or bronze cannon or fieldpieces and cannon balls to the city of Henderson, Ky.;

H. R. 27970. An act to amend section 8 of the act approved May 28, 1908, entitled "An act to amend the laws relating to navigation, and for other purposes;" and

H. J. Res. 226. Joint resolution authorizing the Secretary of War to loan certain tents for use at the festival encampment of the North American Gymnastic Union, to be held at Cincinnati, Ohio, in June, 1909.

STATEHOOD.

Mr. HAMILTON of Michigan. Mr. Speaker, by authority of the Committee on Territories, I move to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill H. R. 27891, known as the "statehood bill," to suspend the rules, and pass the bill.

The SPEAKER. The gentleman from Michigan, by authority of the Committee on Territories, moves to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill indicated, the so-called "statehood bill," to suspend the rules, and pass the same. The Clerk will read the bill.

The bill was read, as follows:

A bill (H. R. 27891) to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

Be it enacted, etc., That the inhabitants of all that part of the area of the United States now constituting the Territory of New Mexico, as at present described, may become the State of New Mexico, as hereinafter provided.

SEC. 2. That all the qualified electors of said Territory are hereby authorized to vote for and choose delegates to form a convention for said Territory. The aforesaid convention shall consist of 100 delegates; and the governor, chief justice, and secretary of said Territory shall apportion the delegates to be thus elected, as nearly as may be, equitably among the several counties thereof in accordance with the voting population as shown by the vote cast at the election for Delegate in Congress in said Territory in 1908.

The governor of said Territory shall, within thirty days after the approval of this act, by proclamation in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order an election of the delegates aforesaid in said Territory on a day designated by him in said proclamation, within sixty days after the approval of this act. Such election for delegates shall be conducted, the returns made, and the certificates of persons elected to such convention issued, as nearly as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature; and the penal provisions of said laws are hereby made applicable to the election herein provided for; and said convention when so called to order and organized shall be the sole judge of the election and qualifications of its own members. Persons possessing the qualifications entitling them to vote at the aforesaid election of delegates shall be entitled to vote on the ratification or rejection of the constitution formed by said convention when said constitution shall be submitted to the people of said Territory hereunder, and on the election of all officials whose election is taking place at the same time, under such rules and regulations as said convention may prescribe, not in conflict with this act.

SEC. 3. That the delegates to the convention thus elected shall meet in the hall of the house of representatives in the capital of the Territory of New Mexico at 12 o'clock noon on the fourth Monday after their election, and they shall not receive compensation for more than sixty days of service; after organization they shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and state government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, except as hereinafter provided, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and such Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property outside of an Indian reservation owned or held by any Indian, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory of New Mexico shall be assumed and paid by said State, and that said State shall be subrogated to all the rights of indemnity and reimbursement which said Territory now has.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and that said schools shall always be conducted in English: *Provided*, That nothing in this act shall preclude the teaching of other languages in said public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all state officers.

Sixth. That the capital of said State shall temporarily be at the city of Santa Fe, in the present Territory of New Mexico, and shall not be changed therefrom previous to A. D. 1915, but the permanent location of said capital may, after said year, be fixed by the electors of said State, voting at an election to be provided for by the legislature.

Seventh. That the State shall grant to the United States Government all rights and powers relating thereto necessary for the carrying out of the provisions by it of the act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, and acts amendatory thereof, to the same extent as if said State had remained a Territory.

SEC. 4. That in case a constitution and state government shall be formed in compliance with the provisions of this act, the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection, at an election which shall be held on the first Tuesday after the first Monday in November after the adjournment of the convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution and for or against any provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe; who, with the governor and chief justice of said Territory, shall constitute a canvassing board, and they, or any two of them, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution, the said canvassing board shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and if the provisions in this act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of the votes cast thereon and a copy of said constitution, articles, propositions, and ordinances from said board, to issue his proclamation announcing the result of said election, and thereupon the proposed State shall be deemed admitted by Congress into the Union, under and by virtue of this act, under the name of New Mexico, on an equal footing with the original States, from and after the date of said proclamation.

The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election, shall be forwarded and turned over by the secretary of the Territory of New Mexico to the state authorities.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to two Representatives in the

House of Representatives of the United States, to be elected at large from said State, which Representatives, together with the governor and other officers provided for in said constitution, shall be elected on the same day of the election for the adoption of the constitution; and until said state officers are elected and qualified under the provisions of the constitution and the State is admitted into the Union the territorial officers of said Territory, including Delegate to Congress, shall continue to discharge the duties of their respective offices in said Territory until their successors are duly elected and qualified.

SEC. 6. That in addition to sections 16 and 36, heretofore granted to the Territory of New Mexico, sections 2 and 32 are hereby granted to the said State for the support of common schools, and where sections 2, 16, 32, and 36, or any parts thereof, are mineral, or have been sold, reserved, or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto in acreage are hereby granted to the said State for the support of common schools: *Provided*, That any such sections 2, 16, 32, and 36, or parts thereof, embraced in any Indian, military, or other reservations, except national forests, at the date of the passage of this act, or prior to the survey of said sections, shall not be subject to this grant, but other lands of equal area are hereby granted to be selected for school purposes in lieu thereof. And the Secretary of the Interior, without awaiting the extension of the public surveys, shall ascertain and determine, by protraction or otherwise, the area of said sections 2, 16, 32, and 36 included within such Indian, military, or other reservations, including national forests, and shall certify to the State the area thus determined, whereupon the State shall be entitled to select indemnity lands to the extent of the area thus certified: *And provided*, That the grants of sections 2, 16, 32, and 36 to said State within national forests now existing or proclaimed before identification of said sections by survey shall not vest the title to said sections in said State until the part of said national forests embracing any of said sections is restored to the public domain, but in the meantime said State shall have the option of making indemnity selections for any or all of said sections or of leaving any or all of them to remain a part of the respective national forests; and said sections so left in national forests shall be administered as a part of said forests, but at the close of each fiscal year there shall be paid by the Secretary of the Treasury to the State as income for its common-school fund 20 per cent of the gross proceeds of all the national forests within said State, said 20 per cent, however, to be reduced at the end of each fiscal year in proportion to the reduction of the area of said sections originally in national forests, by all indemnity selections which may have been made by the State for said sections in said forests prior to the close of the respective fiscal years, the area of said sections when unsurveyed to be determined by the Secretary of the Interior, by protraction or otherwise, the amount necessary for such payments being hereby appropriated and made available annually from any money in the Treasury not otherwise appropriated.

SEC. 7. That where settlement with a view to preemption or homestead, or improvement with a view to desert-land entry, made heretofore or hereafter, before the survey of the lands in the field, are found to have been made on sections 2, 16, 32, or 36, those sections or portions thereof settled upon or improved shall be subject to the claims of such settlers or desert-land claimants who have otherwise complied with the requirements of the preemption, homestead, and desert-land acts, respectively, and other lands of equal acreage are hereby granted in lieu thereof. And other lands are hereby granted to and may be selected by said State as indemnity whereupon survey sections 2, 16, 32, and 36 are found to be entirely wanting or fractional in quantity by reason of the township being fractional, or from any natural cause whatever, except that the area of such indemnity selection right in any such fractional township shall not in any event exceed an area which, when added to the area of the above-named sections returned by the survey as in place, will equal four sections for fractional townships containing 17,280 acres or more, three sections for such townships containing 11,520 acres or more, two sections for such townships containing 5,760 acres or more, nor one section for such townships containing 640 acres or more.

SEC. 8. That in lieu of the grant of land for purposes of internal improvements made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the proposed State, and in lieu of any claim or demand by said State under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the said State, and in lieu of the grant of saline lands heretofore made to the Territory of New Mexico for university purposes by section 3 of the act of June 21, 1898, which is hereby repealed except as to such portions of such saline lands as may have been selected by said Territory prior to the passage of this act, the following grants of land are hereby made, to wit:

For university purposes, 54,400 acres; for legislative, executive, and judicial public buildings heretofore erected in said Territory or to be hereafter erected in the State, and for the payment of the bonds heretofore or hereafter issued therefor, 96,000 acres; for insane asylums, 100,000 acres; for penitentiaries, 100,000 acres; for schools and asylums for the deaf, dumb, and the blind, 100,000 acres; for miners' hospitals for disabled miners, 50,000 acres; for normal schools, 200,000 acres; for state charitable, penal, and reformatory institutions, 100,000 acres; for agricultural and mechanical colleges, 150,000 acres; and the national appropriation heretofore annually paid for the agricultural and mechanical college to said Territory shall, until further order of Congress, continue to be paid to said State for the use of said institution; for school of mines, 100,000 acres; for military institutes, 100,000 acres; and for the payment of the debts of said Territory and of such valid county and other public debts existing at the date of the approval of this act as said Territory may have assumed or said State shall assume, 3,000,000 acres: *Provided*, That if there shall remain any of the 3,000,000 acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or other profits therefrom, after the payment of said debts, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State, the income therefrom only to be used for the maintenance of the common schools of said State.

SEC. 9. That the schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 10. That 5 per cent of the proceeds of sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union after deducting all the expenses incident to such sales, shall be paid to the said State to be used as a permanent inviolable fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 11. That all lands herein or heretofore granted for educational purposes shall be disposed of, at public sale only, for a price not less than $5 per acre as to all such lands east of the one hundred and fifth meridian of longitude nor less than $3 per acre for such land west of said meridian, the proceeds of such sales to constitute a permanent fund, any portion of which, if lost for any reason, shall be replaced by appropriation from the treasury of the State, and the income from which only shall be expended for the improvement, maintenance, and support of the respective educational institutions; but pending sale said lands may be leased as the state legislature shall prescribe; and all lands herein or heretofore granted for purposes other than educational shall be disposed of as the legislature of said State may prescribe.

SEC. 12. That all lands granted in quantity, or as indemnity, by this act shall be selected under the direction of the Secretary of the Interior from the unreserved, unappropriated, and nonmineral public lands of the United States within the limits of said State by a commission composed of the governor, surveyor-general, or other officer exercising the functions of a surveyor-general, and attorney-general of the said State; and the fees to be paid to the register and receiver collectively for each final location or selection of 160 acres made hereunder shall be $1: *Provided*, That if the above commission selects any tract of unsurveyed land it shall determine the exterior boundaries thereof and file with the Department of the Interior a map and description of such boundaries by metes and bounds or otherwise, and the filing of such selection map and description shall operate to defeat any right within said area sought to be initiated thereafter by location, settlement, or improvement under any but the mineral-land laws; and there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be used by the Secretary of the Interior for such examination and survey of said land as he may deem necessary for purposes of patenting the land so selected to the State.

SEC. 13. That all grants of lands heretofore made by any act of Congress to said Territory, except to the extent modified or repealed by this act, are hereby ratified and confirmed in and to said State.

SEC. 14. That the said State, when admitted as aforesaid, shall constitute one judicial district, and the circuit and district courts of said district shall be held at the capital of said State, or at such other place or places as the court itself may designate, and the said district shall, for judicial purposes, be attached to the eighth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in the district to which he is appointed. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in said district, at the place or places aforesaid, on the first Monday in April and the first Monday in October of each year, and one grand jury shall be summoned in each year in each of said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of New Mexico.

SEC. 15. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said courts, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court, hereby established within the said State, or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall, respectively, be the successors of the supreme court of the said Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the said Territory, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals as they shall have had by law prior to the admission of said State into the Union, and as in other States of the Union.

SEC. 16. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territory at the time of the admission into the Union of the said State, and arising within the limits of such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory, respectively; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said Territory at the time of the admission of such Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any territorial court in said Territory shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or state court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party transfers shall not be made to the circuit and district courts of the United States except upon cause shown by written request of one of the parties to such action or proceeding filed in the proper

court; and in the absence of such request such cases shall be proceeded with in the proper state courts.

SEC. 17. That the constitutional convention shall by ordinance provide for the election of officers for a full state government, including members of the legislature, two Representatives in Congress, and such county and other officers as said constitutional convention shall prescribe, at the time for the election for the ratification or rejection of the constitution; but the said state government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the constitution of said State shall be ratified by a majority of the qualified voters of said Territory voting at the election held therefor as hereinbefore provided, but not otherwise, the legislature thereof may assemble at Santa Fe, organize, and elect two Senators of the United States in the manner now prescribed by the Constitution and laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law, and when such State is admitted into the Union, as provided in this act, the Senators and Representatives shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the state government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of state officers; and all laws of said Territory in force at the time of its admission into the Union shall be in force in said State until changed by the legislature of said State, except as modified or changed by this act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 18. That the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and convention provided for in this act; that is, the payment of the expenses of holding the election for members of the constitutional convention and the election for the ratification of the constitution, at the same rates that are paid for similar services under the territorial laws, and for the payment of the mileage for and salaries of members of the constitutional convention at the same rates that are paid to members of the said territorial legislature under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, That any expense incurred in excess of said sum of $100,000 shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded, to be locally expended in the present Territory of New Mexico through the secretary of said Territory, as may be necessary and proper, in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this act.

SEC. 19. That the inhabitants of all that part of the area of the United States now constituting the Territory of Arizona, as at present described, may become the State of Arizona, as hereinafter provided.

SEC. 20. That all the qualified electors of said Territory are hereby authorized to vote for and choose delegates to form a convention for said Territory. The aforesaid convention shall consist of 52 delegates; and the governor, chief justice, and secretary of said Territory shall apportion the delegates to be thus elected, as nearly as may be, equitably among the several counties thereof in accordance with the voting population as shown by the vote cast at the election for Delegate in Congress in said Territory in 1908.

The governor of said Territory shall, within thirty days after the approval of this act, by proclamation, in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order an election of the delegates aforesaid in said Territory on a day designated by him in said proclamation, within sixty days after the approval of this act. Such election for delegates shall be conducted, the returns made, and the certificates of persons elected to such convention issued, as near as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature; and the penal provisions of said laws are hereby made applicable to the election herein provided for; and said convention when so called to order and organized shall be the sole judge of the election and qualifications of its own members. Persons possessing the qualifications entitling them to vote at the aforesaid election of delegates shall be entitled to vote on the ratification or rejection of the constitution formed by said convention when said constitution shall be submitted to the people of said Territory hereunder, and on the election of all officials whose election is taking place at the same time, under such rules and regulations as said convention may prescribe not in conflict with this act.

SEC. 21. That the delegates to the convention thus elected shall meet in the hall of the house of representatives in the capital of the Territory of Arizona, at 12 o'clock noon on the fourth Monday after their election and they shall not receive compensation for more than sixty days of service; after organization they shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and state government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof and to all lands lying within said limits owned or held by any Indian or Indian tribes, except as hereinafter provided, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and such Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property, outside of an Indian reservation, owned or held by any Indian, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory of Arizona shall be assumed and paid by said State, and that said State shall be subrogated to all the rights of indemnity and reimbursement which said Territory now has.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and that said schools shall always be conducted in English: *Provided*, That nothing in this act shall preclude the teaching of other languages in said public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, and speak the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all state officers.

Sixth. That the capital of said State shall temporarily be at the city of Phoenix, in the present Territory of Arizona, and shall not be changed therefrom previous to A. D. 1915, but the permanent location of said capital may, after said year, be fixed by the electors of said State, voting at an election to be provided for by the legislature.

Seventh. That the State shall grant to the United States Government all rights and powers relating thereto necessary for the carrying out of the provisions by it of the act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, and acts amendatory thereof, to the same extent as if said State had remained a Territory.

SEC. 22. That in case a constitution and state government shall be formed in compliance with the provisions of this act, the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection, at an election which shall be held on the first Tuesday after the first Monday in November after the adjournment of the convention, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution and for or against any provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of Arizona at Phoenix; who, with the governor and chief justice of said Territory, shall constitute a canvassing board, and they, or any two of them, shall meet at said city of Phoenix on the third Monday after said election and shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the said canvassing board shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and if the provisions in this act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of the votes cast thereon and a copy of said constitution, articles, propositions, and ordinances from said board, to issue his proclamation announcing the result of said election, and thereupon the proposed State shall be deemed admitted by Congress into the Union, under and by virtue of this act, under the name of Arizona, on an equal footing with the original States, from and after the date of said proclamation.

The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election shall be forwarded and turned over by the secretary of the Territory of Arizona to the state authorities.

SEC. 23. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and other officers provided for in said constitution, shall be elected on the same day of the election for the adoption of the constitution; and until said state officers are elected and qualified under the provisions of the constitution, and the State is admitted into the Union, the territorial officers of said Territory, including Delegates to Congress, shall continue to discharge the duties of their respective offices in said Territory until their successors are duly elected and qualified.

SEC. 24. That in addition to sections 16 and 36, heretofore reserved for the Territory of Arizona, sections 2 and 32 are hereby granted to the said State for the support of common schools, and where sections 2, 16, 32, and 36, or any parts thereof, are mineral, or have been sold, reserved, or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto in acreage are hereby granted to the said State for the support of common schools: *Provided*, That any such sections 2, 16, 32, and 36, or parts thereof, embraced in any Indian, military, or other reservations, except national forests, at the date of the passage of this act, or prior to the survey of said sections, shall not be subject to this grant, but other lands of equal area are hereby granted to be selected for school purposes in lieu thereof. And the Secretary of the Interior, without awaiting the extension of the public surveys, shall ascertain and determine, by protraction or otherwise, the area of said sections 2, 16, 32, and 36 included within such Indian, military, or other reservations, including national forests, and shall certify to the State the area thus determined, whereupon the State shall be entitled to select indemnity lands to the extent of the area thus certified: *And provided*, That the grants of sections 2, 16, 32, and 36 to said State within national forests now existing or proclaimed before identification of said sections by survey shall not vest the title to said sections in said State until the part of said national forests embracing any of said sections is restored to the public domain, but in the meantime said State shall have the option of making indemnity selections for any or all of said sections or of leaving any or all of them to remain a part of the respective national forests; and said sections so left in national forests shall be administered as a part of said forests, but at the close of each fiscal year

there shall be paid by the Secretary of the Treasury to the State as income for its common-school fund 20 per cent of the gross proceeds of all the national forests within said State, said 20 per cent, however, to be reduced at the end of each fiscal year in proportion to the reduction of the area of said sections originally in national forests by all indemnity selections which may have been made by the State for said sections in said forests prior to the close of the respective fiscal years, the area of said sections when unsurveyed to be determined by the Secretary of the Interior by protraction or otherwise, the amount necessary for such payments being hereby appropriated and made available annually from any money in the Treasury not otherwise appropriated.

SEC. 25. That where settlement with a view to preemption or homestead, or improvement with a view to desert-land entry, made heretofore or hereafter before survey, are found to have been made on sections 2, 16, 32, or 36, those sections or the portions thereof settled upon or improved shall be subject to the claims of such settlers or desert-land claimants who have otherwise complied with the requirements of the preemption, homestead, and desert-land acts, respectively, and other lands of equal acreage are hereby granted in lieu thereof. And other lands are hereby granted to and may be selected by said State as indemnity where upon survey sections 2, 16, 32, and 36 are found to be entirely wanting or fractional in quantity by reason of the township being fractional, or from any natural cause whatever, except that the area of such indemnity selection right in any such fractional township shall not in any event exceed an area which when added to the area of the above-named sections returned by the survey as in place will equal four sections for fractional townships containing 17,280 acres or more, three sections for such townships containing 11,520 acres or more, two sections for such townships containing 5,760 acres or more, nor one section for such townships containing 640 acres or more.

SEC. 26. That in lieu of the grant of land for purposes of internal improvements made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the proposed State, and in lieu of any claim or demand by said State under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared as not extended to the said State, the following grants of land are hereby made, to wit:

For university purposes, 120,000 acres; for legislative, executive, and judicial public buildings heretofore erected in said Territory, or to be hereafter erected in the State, and for the payment of the bonds heretofore or hereafter issued therefor, 96,000 acres; for insane asylums, 100,000 acres; for penitentiaries, 100,000 acres; for schools and asylums for the deaf, dumb, and the blind, 100,000 acres; for miners' hospitals for disabled miners, 50,000 acres; for normal schools, 200,000 acres; for state charitable, penal, and reformatory institutions, 100,000 acres; for agricultural and mechanical colleges, 150,000 acres, and the national appropriation heretofore annually paid for the agricultural and mechanical college to said Territory shall, until further order of Congress, continue to be paid to said State for the use of said institution; for school of mines, 100,000 acres; for military institutes, 100,000 acres; for irrigation for public purposes and for improvement of rivers by confining them within their banks and preventing destructive overflow of streams, 600,000 acres; and for the payment of the debts of said Territory and of such valid county and other public debts existing at the date of the approval of this act as said Territory may have assumed or said State shall assume, 3,300,000 acres: *Provided*, That if there shall remain any of the 3,300,000 acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or other profits therefrom, after the payment of said debts, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State, the income therefrom only to be used for the maintenance of the common schools of said State.

SEC. 27. That the schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 28. That 5 per cent of the proceeds of sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to the said State, to be used as a permanent inviolable fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 29. That all lands herein or heretofore granted for educational purposes shall be disposed of at public sale only, for a price not less than $3 per acre, the proceeds of such sale to constitute a permanent fund, any portion of which if lost for any reason shall be replaced by appropriations from the treasury of the State, and the income from which only shall be expended for the improvement, maintenance, and support of the respective educational institutions, but pending sale said lands may be leased as the state legislature shall prescribe, excepting all of such lands which are now and were on the 1st day January, 1909, within the exterior limits of any district or districts of lands within said State designated by the Secretary of the Interior to be lands that may be supplied with irrigation water from any irrigation works which have been wholly or in part constructed or acquired, or which are under construction or process of acquisition by the United States under the provisions of an act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, and acts amendatory thereof; and all of such lands for which provision had been made by the occupants thereof prior to January 1, 1909, for the use of water for the irrigation thereof from any public or private source, the right to the use of which is being now exercised under bona fide claim of right thereto; all or any part of which lands may be disposed of by said State in such manner and upon such terms as the legislature of the State may from time to time prescribe, but at not less than $25 per acre; and all lands herein or heretofore granted for purposes other than educational shall be disposed of as the legislature of said State may prescribe.

SEC. 30. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the unreserved, unappropriated, and nonmineral public lands of the United States within the limits of said State by a commission composed of the governor, surveyor-general or other officer exercising the functions of a surveyor-general, and attorney-general of the said State; and the fees to be paid to the register and receiver collectively for each final location or selection of 160 acres made hereunder shall be $1: *Provided*, That if the above commission selects any tract of unsurveyed land, it shall determine the exterior boundaries thereof and file with the Department of the Interior a map and description of such boundaries by metes and bounds or otherwise, and the filing of such selection map and description shall operate to defeat any right within said area sought to be initiated thereafter by location, settlement, or improvement under any but the mineral-land laws; and there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be used by the Secretary of the Interior for such examination and survey of said land as he may deem necessary for purposes of patenting the land so selected to the State.

SEC. 31. That all grants of lands heretofore made by any act of Congress to said Territory, except to the extent modified or repealed by this act, are hereby ratified and confirmed in and to said State.

SEC. 32. That the said State, when admitted as aforesaid, shall constitute one judicial district, and the circuit and district courts of said district shall be held at the capital of said State, or at such other place or places as the court itself may designate, and the said district shall, for judicial purposes, until otherwise provided, be attached to the ninth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in the district to which he is appointed. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in said district, at the place or places aforesaid, on the first Monday in April and the first Monday in October of each year, and one grand jury shall be summoned in each year in each of said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of Arizona.

SEC. 33. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said courts, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court, hereby established within the said State or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall, respectively, be the successors of the supreme court of the said Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the said Territory, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals as they shall have had by law prior to the admission of said State into the Union, and as in other States of the Union.

SEC. 34. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territory at the time of the admission into the Union of the said State, and arising within the limits of such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory, respectively; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said Territory at the time of the admission of such Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any territorial court in said Territory shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or state court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon cause shown by written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper state courts.

SEC. 35. That the constitutional convention shall by ordinance provide for the election of officers for a full state government, including members of the legislature, one Representative in Congress, and such county and other officers as said constitutional convention shall prescribe, at the time for the election for the ratification or rejection of the constitution; but the said state government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the constitution of said State shall be ratified by a majority of the qualified voters of said Territory voting at the election held therefor, as hereinbefore provided, but not otherwise, the legislature thereof may assemble at Phoenix, organize, and elect two Senators of the United States in the manner now prescribed by the Constitution and laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and the Representative in the manner required by law, and when such State is admitted into the Union, as provided in this act, the Senators and the Representative shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the state government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of state officers; and all laws of said Territory in force at the time of its admission into the Union shall be in force in said State until changed by the legislature of said State, except as modified or changed by this act or by the constitution of the State; and the laws

of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 36. That the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and convention provided for in this act; that is, the payment of the expenses of holding the election for members of the constitutional convention and the election for the ratification of the constitution, at the same rates that are paid for similar services under the territorial laws, and for the payment of the mileage for and salaries of members of the constitutional convention at the same rates that are paid to members of the said territorial legislature under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, That any expense incurred in excess of said sum of $100,000 shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded, to be locally expended in the present Territory of Arizona through the secretary of said Territory, as may be necessary and proper, in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this act.

During the reading of the bill,

Mr. SMITH of Arizona. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SMITH of Arizona. I should like to ask the Chair whether or not, under a motion to suspend all rules, the reading of the bill is required? How can the reading be demanded if all rules are suspended, even the rule requiring the reading of the bill?

The SPEAKER. It is only the rules that stand in the way of the consideration of the bill that are suspended; and so far as the Chair recollects, it has been the practice to read the bills at some time. Every man in the House has a right to have the bill read once at least on which he is called to vote. It seems to the Chair that the practice of the House had better be adhered to.

Mr. SMITH of Arizona. If my memory serves me correctly, I think it has been frequently ruled, under a suspension, that the reading is unnecessary. But I am not controverting the Chair in that, and if the rule calls for the reading of the bill, I should like to ask unanimous consent, as the House is paying very little attention to the reading——

The SPEAKER. The Chair is informed that there are one or more precedents where the House has suspended the rules and dispensed with the reading of a measure, but there would have to be a special vote on that method of proceeding. It is a little inconvenient, but it seems to the Chair——

Mr. MANN. I should think the gentleman might contain his patience long enough, in his desire to get statehood, so that the bill might at least be read.

Mr. SMITH of Arizona. I do not think the gentleman from Illinois is paying particular attention to the reading.

Mr. MANN. On the contrary, the gentleman has been examining the bill very carefully.

Mr. SMITH of Arizona. I ask unanimous consent——

Mr. MANN. I shall have to object, if it requires unanimous consent.

The SPEAKER. The gentleman from Illinois objects. The Clerk will read.

The Clerk resumed and completed the reading.

The SPEAKER. Is a second demanded?

Mr. LLOYD. I demand a second.

Mr. HAMILTON. I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Michigan [Mr. HAMILTON] is entitled to twenty minutes, and the gentleman from Missouri [Mr. LLOYD] is entitled to twenty minutes.

Mr. HAMILTON of Michigan. Mr. Speaker, it is not my purpose to occupy so much even as five minutes. I simply want to say that I believe I express the conviction of the overwhelming majority of this House when I say that the question whether we shall make States out of Arizona and New Mexico is practically a foreclosed question. The platforms of both the great political parties have declared for immediate separate statehood for Arizona and New Mexico. The retiring administration has repeatedly declared for statehood for those Territories, and I am informed that the incoming administration desires the admission of these Territories as States.

I have read in the newspapers that it has been said by some one, not connected with this House, but connected with Congress, that there may not be sufficient time during the remainder of this session for the consideration of this bill. I have only to say that during the last six years no question has received more frequent consideration by the Committee on the Territories of this House and the Committee on Territories of the Senate, and by the House and by the Senate than this question of statehood; and I believe, Mr. Speaker, that the time has come when we should grant statehood to these Territories. [Applause.]

I reserve the remainder of my time.

Mr. LLOYD. I yield ten minutes to the gentleman from Arizona [Mr. SMITH]. [Prolonged applause.]

[Mr. SMITH of Arizona addressed the House. See Appendix.]

Mr. HAMILTON of Michigan. Mr. Speaker, this is not a partisan occasion, but in response to something more than a suggestion in the remarks of the gentleman from Arizona [Mr. SMITH], I desire to call attention to the fact that ever since 1875 there has scarcely been a Congress when statehood bills for Arizona and New Mexico have not been introduced; that during the Cleveland administration, in the Fifty-second Congress, the Democratic party had full control of the House and in the Fifty-third Congress had full control of Congress, but no statehood bills were passed. [Applause on the Republican side.] As I said before, this is not a partisan occasion——

Mr. SMITH of Arizona. Mr. Speaker, I hope my friend from Michigan has not understood me as trying to throw any partisan color into this matter.

Mr. HAMILTON of Michigan. I feared the gentleman might be doing that.

Mr. SMITH of Arizona. It was far from my purpose to do so, I will say to my friend from Michigan, and, speaking for my people, we can not say too much for the honest and consistent labors which he has given to our cause.

Mr. HAMILTON of Michigan. I thank the gentleman, and I am completely disarmed. [Laughter and applause.]

Mr. LLOYD. Mr. Speaker, I yield two minutes to the gentleman from Kentucky [Mr. STANLEY].

Mr. STANLEY. Mr. Speaker, I think it entirely fitting that in speaking of these Territories we should speak of the gentlemen who have represented them. My love for Arizona has been increased by my admiration for her good judgment in sending MARK SMITH to Congress. [Applause.]

No Member of the Sixtieth Congress will retire from it more universally beloved or more universally regretted than my dear old friend the gentleman from Arizona [Mr. SMITH]. [Applause.]

I might be tempted to question the appreciation and the wisdom of Arizona in permitting him to return to private life were I not aware of his sensitive and intense devotion to his people and his unwillingness to hear them questioned or criticised, even though in that criticism there should be implied a compliment to himself.

I can say, however, that his retirement at this time is the cause of genuine surprise among those who have followed his career with interest and with admiration. But a short time ago it seemed morally certain that Arizona and New Mexico would be indissolubly bound in a union that to the people of Arizona appeared nothing less than a loathsome and abhorred miscegenation. Then it was that MARK SMITH displayed his tireless devotion to his people and his marvelous tact and resourcefulness in saving them from the impending catastrophe. [Applause.]

A Delegate without a vote, with nothing to give and nothing to exchange, battling among several hundred cool, calculating politicians, undaunted by the desperation of his cause, determined to fight as long as there was a ray of hope, and die, if need be, in the last ditch. In the committee rooms, in the House, in the Senate—he was everywhere, he saw everybody. Nothing could be done or said or attempted that he was not there to answer, to explain, to checkmate. Twenty-odd years of distinguished service had won for him the respect of the House and of the Senate, and his generous, genial, and winsome personality had attracted to him every man capable of a generous impulse or disinterested emotion. In the presence of those who knew him in that trying hour, I can unhesitatingly say, without being charged with exaggeration or flattery, that it was to the efforts of MARK SMITH and to his personal influence more than to any and to all other causes combined that Arizona owes her escape from the irksome shackles which she so much dreaded. [Applause.]

Had any Member of the House of Representatives, on either side of the Chamber, been asked "What would be the inevitable result, so far as MARK SMITH was personally concerned," the reply would inevitably have been: "MARK SMITH will remain in the House as long as Arizona is a Territory, and he will be the first to wear with distinction the senatorial toga when she becomes a State." [Prolonged applause.] It was indeed with pain and amazement we learned that after more than twenty years of distinguished service this tried and valiant champion of his people, with his deathless laurels still fresh upon his brow, was retired by the Territory he had redeemed, and that Arizona,

on the very threshold of the promised land, having been led out of this wilderness by her brave sponsor, seems to have forgotten him in the hour of her brightest hope.

His colleagues, without an exception, still cherish the fond desire that he shall receive the reward which he so abundantly deserves, and that his name shall be indissolubly linked with Arizona the State as it is forever emblazoned on the brightest pages of the history of Arizona the Territory. [Applause.]

MARK SMITH, the jurist and the statesman, has commanded unqualified respect and attention. As an eloquent and impassioned orator he has thrilled a critical audience with admiration and delight; great as a lawyer and a forensic orator, he is greater still and dearer still as a man. Tender as a woman, brave as a lion, the soul of honor and of truth, utterly incapable of fearing an enemy or of disloyalty to a friend, a perfect exemplar of that debonair, winsome, and picturesque civilization which immortalized the old South, we bid MARK SMITH, the dear old friend and the ideal gentleman, a temporary adieu, assuring him that he will carry with him into his western home the tenderest memories and the truest friendship one noble man ever inspired in the warm heart of another. [Prolonged applause.]

Mr. LLOYD. Mr. Speaker, I yield two minutes to the gentleman from Mississippi [Mr. CANDLER].

Mr. CANDLER. Mr. Speaker, I do not desire at this late hour to detain the House in arriving at a conclusion in reference to this great question which is now pending before us. I am a member of the Committee on Territories and had the honor to take part in reporting this bill, and am proud of it. It is no longer a question, as has been so well said by the distinguished gentleman from Arizona [Mr. SMITH], that admits of argument, because both of the great political parties of the country have announced most solemnly in their platforms in favor of the admission of these two Territories as States of the Union. Therefore, both of the great political parties of the country, which absolutely control the destinies of the Republic, having declared in favor of the admission of these Territories, I take it for granted that a unanimous vote will record the will of those parties that represent all the people at large.

When this is done, then two new stars will be added to the flag of this Republic, which we all love and which we honor and respect, a flag that shelters this whole country, and beneath the folds of which we all stand seeking to promote the advancement and prosperity and development of all the people and the resources of this great land, which contribute so much not only to the development of our own people, but to the peace and prosperity and glory of the world at large. This result has been brought about not only by reason of the fact that these two great parties have declared in favor of it, but because of the further fact that the distinguished Delegate from New Mexico [Mr. ANDREWS] and the distinguished Delegate from Arizona [Mr. SMITH] have labored in season and out of season for its accomplishment. The distinguished chairman of the committee, the gentleman from Michigan [Mr. HAMILTON], has lent a helping hand and been ready and willing at all times to further the advancement of this object. I trust that when these stars are added to the flag it will be an added brilliancy to the glory that the other States in their grandeur have given to this flag, which will give happiness and peace and prosperity to the country at large and be a blessing to the people to whom we give statehood. I trust the bill will promptly pass. [Great applause.]

Mr. COLE. Mr. Speaker, I am somewhat surprised at the character of the eulogy pronounced by the gentleman from Kentucky [Mr. STANLEY] upon the distinguished Delegate from Arizona. It sounded somewhat like an obituary. A strong impression prevails that this is not the final honor for that gentleman, but merely a stepping-stone to the Senate of the United States. Mr. Speaker, the Committee on Trerritories has thoroughly considered every detail of this measure. It is a unanimous report. The rights of the Government and of the people are properly safeguarded. One statement has been made which I desire to correct. It has been charged that the Government of the United States has not kept faith with the people of New Mexico and Arizona in not granting to them statehood prior to this time. The statement has gone unchallenged that there was a provision for immediate statehood in the treaty of 1848 between the United States and Mexico and under which the Territory of New Mexico was ceded to the United States. In order that the RECORD may show distinctly that no such article was ever incorporated into the treaty of Guadalupe Hidalgo, I desire to read section 9, which refers to that subject:

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceeding article, shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States), to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution.

Under the provisions of that treaty it is expressly stipulated that statehood shall not be granted to the territory ceded to the United States until so decreed by Congress. I hope this will silence the oft-repeated assertion that the Government has failed to redeem its treaty obligations in regard to these two Territories.

The struggle of New Mexico for statehood has extended over a long period of time. The great prize has been within her grasp a number of times, only to disappear with the expiration of a Congress. The first attempt for statehood was made in 1850. The status of New Mexico was a subject of contention in the great omnibus bill of Henry Clay, the last of his famous compromises for the preservation of the Union. Under the provisions of that measure California was admited as a State, but New Mexico was organized into a Territory. Thus her early aspirations for statehood were sacrificed in the preliminary struggle for nationality. The people of New Mexico evidently understood that they were to be given immediate admission into the Union. A convention was called, a constitution framed, submitted to and adopted by the people, and Senators and a Member of Congress elected. They had traveled as far as Missouri when they learned of the adverse action of Congress. Arizona was a part of New Mexico at this time and remained so until 1863.

The second attempt was made in 1874–75, when Senator ELKINS of West Virginia was the Delegate in Congress from New Mexico. An enabling act passed the House by a vote of 160 to 54. This measure passed the Senate in an amended form by a vote of 32 to 11. This vote in both House and Senate indicated an overwhelming sentiment for admission over a quarter of a century ago.

If New Mexico was qualified for statehood at that time, with all the progress that has since been made, it can not be contended now that she is lacking in any of the essential factors of statehood. Unfortunately for the fate of that bill the amendments proposed in the Senate necessitated a conference. It was so late in the session that it was impossible to adjust the differences between the two Houses, and the bill died in conference. The same measure passed the succeeding Senate by a vote of 35 to 15. It was reported favorably by the House Committee on Territories, but was never reached on the calendar. The third fight for statehood began in 1890, and has been waged with untiring zeal down to the present time. In 1906 a bill providing for joint statehood between New Mexico and Arizona passed the House of Representatives. The bill passed the Senate after a proviso had been incorporated, which submitted the question to a direct vote of the people of the Territories. It was made mandatory under this proviso that a majority of the votes in each Territory should be cast in favor of joint statehood or the provisions of the act should be null and void. Arizona refused to sanction the proposal, and the measure failed. Joint statehood is forever doomed. It would be impossible to pass another such measure through Congress. The question now is separate statehood or a continuation of territorial government.

New Mexico comes with splendid qualifications for admission as a member of the Union. This fact has been recognized by both great political parties in their platforms of 1908. Both documents contain an unequivocal declaration in favor of immediate admission.

Population has always been considered the leading qualification of statehood. During the whole course of our history it has been customary to admit a Territory when it contained a sufficient population for one Member of Congress. The ratio of representation at the present time, approximately stated, is one Member of Congress to every 185,000 of people. If this were the only standard, New Mexico's title to admission is perfect. According to the census of 1900 there were 195,310 people residing within her boundaries. It is evident, however, from the school enumeration and other public documents of unquestioned authority, that the population of New Mexico was at least 225,000 in 1900 and has greatly increased since that time. From July, 1906, to October, 1907, there were 23,223 land entries made in that Territory. Each of those entries represents a family, which would indicate an increase of at least 100,000. The great influx of farmers from the East into western Texas and eastern New Mexico is a matter of common knowledge. New Mexico has at the present time a greater population than any other State at the date of admission except Oklahoma. I shall include in my remarks a table showing the date of admission and population of a number of States of the Federal Union.

State.	Date of admission.	Population.
Tennessee	1796	35,691
Ohio	1802	43,365
Louisiana	1812	76,556
Indiana	1816	24,520
Mississippi	1817	[a]40,353
Illinois	1818	12,282
Missouri	1821	66,557
Minnesota	1858	6,077
Oregon	1859	13,294
Kansas	1861	107,206
Nevada	1864	6,857
Nebraska	1867	28,841
Colorado	1876	39,864
North Dakota	1889	135,177
South Dakota		
California	1850	92,597

[a] Including Alabama.

A conservative estimate of the present population of New Mexico is 350,000. The evidence to sustain this statement is so conclusive that by common consent we have granted New Mexico two Members of Congress in the pending measure.

The character of the people is perhaps the second qualification in importance for statehood. It is perhaps sufficient to state that 93 per cent of the people of New Mexico are American-born citizens. This is undoubtedly a greater per cent of native-born Americans than can be found in any other State in the Union. The foreign-born inhabitants in Idaho constitute 21 per cent of her population; Utah, 22 per cent; Wyoming, 24 per cent; Washington, 25 per cent; Montana, 43 per cent; and North Dakota, 45 per cent. When we refer to many of the older States New Mexico has the same advantage in comparison. In 1900 Michigan had 22 per cent foreign-born population; New York, 26 per cent; Minnesota, 29 per cent; and Massachusetts, 30 per cent. It is evident from the foregoing figures that as far as the character of the citizenship of New Mexico is concerned, they are on an equality with the rest of the country. It is contended, however, that 25 per cent of the people are of Mexican descent. That is true. But the younger generation are taking advantage of the free schools and making rapid strides in education. The character of these Mexicans needs no defense, as they have demonstrated their capacity for advancement and their high respect for law and order during the past fifty years.

New Mexico has made splendid progress along educational lines. In 1891 a public school system was introduced and has been extended throughout the entire Territory. Their common schools will favorably compare in efficiency with those of the older States of the country. It is even contended that she has already established too many institutions of higher learning. New Mexico has one state university, an agricultural college, a military institute, a normal university at Las Vegas, a normal school at Silver City, and a school of mines at Socorro. Her penal and charitable institutions are equal to every demand, and the unfortunate of the Territory receive the same care and consideration that characterizes every American community.

No financial standard has ever yet been established as a qualification for admission into the Union. But as evidence of the great industrial progress of the Territory, it is enough to state that the assessed valuation of property is over $50,000,000. From computations which will hardly admit of refutation it is found that the wealth of New Mexico will aggregate $300,000,000. This is but a promise of her great possibilities. Her resources in minerals, in timber, and the products of her soil are considered almost inexhaustible. Many of her valleys are rich in all the elements of production save that of water. Great irrigation projects are being planned that will fertilize and make fruitful millions of acres and build up homes for thousands of American people.

Mr. Speaker, New Mexico possesses every qualification for statehood. She has more than sufficient population. The character of her people is above criticism. The people of New Mexico have assembled there from all sections of the country—the North, the East, and the South. They have carried with them high ideals of both private and public life. They will build a State ready at all times to stand the severest tests and rise to the full dignity of a member of the Federal Union. Congress will perform an act of justice long delayed by recognizing the validity of her claims and crowning her long and historic fight with a grateful welcome into the sisterhood of States. [Applause.]

Mr. LLOYD. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. SULZER]. [Applause.]

Mr. SULZER. Mr. Speaker, in my opinion it is a matter of sincere congratulation to all friends of home rule that at last Arizona and New Mexico are to be admitted to all the rights of sovereign States. In population, in natural resources, and by every principle of our free institutions they are justly entitled to statehood. For years and years I have been advocating this fundamental right [applause], and I am glad that finally it has come, so far as the House is concerned; and I indulge the hope that the other branch of the Congress will also respond to public sentiment and speedily pass this bill and make it a law before we finally adjourn. [Applause.] I also indulge the gratifying hope that when these two Territories become full-fledged States in the Union our distinguished colleague, Mr. SMITH, and some other good Democrat will be the Senators from Arizona [applause], and that our distinguished colleague, Mr. ANDREWS, and my good friend, Governor Curry, who is with us to-day, will be the first two Senators from New Mexico [applause]; provided, of course, that the Republicans control the legislature. [Laughter.] So let us all rejoice that the last two Territories are now to be made in all respects sister States, with all the rights that it implies, and in this connection I desire to say there is one other right that is near and dear to my heart, and that is home rule for Alaska, local self-government for Alaska—the grandest country on earth, the wonderland of the world, the richest asset in Uncle Sam's domains—and I hope the next Congress will grant Alaska territorial government, with all the rights ever possessed by any Territory. [Applause.]

Mr. HAMILTON of Michigan. Mr. Speaker, while I have the highest regard for the Delegate from Arizona, I feel it my duty to express the hope that the proposed State of Arizona will be strongly a Republican State and will elect a Republican Representative and two Republican Senators to the Congress of the United States. [Applause.]

Mr. LLOYD. Mr. Speaker, I ask unanimous consent that gentlemen may have permission to print remarks on this subject for five days.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. HAMILTON of Michigan. Mr. Speaker, I desire to yield two minutes to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, I want to state one or two facts. I do not raise any political question. If this bill becomes a law it will incorporate into statehood all the remaining territory acquired from Mexico in 1848 and 1853. Now, the other fact is that when the commissioner on behalf of the United States met the commissioners on behalf of Mexico to form the treaty of Guadalupe Hidalgo in 1848, the commissioners of Mexico said that all Mexican territory, including the Territories of New Mexico and Upper California, had been dedicated to freedom, and they asked to have written into the treaty a provision that it should forever remain free. Thereupon it was refused, and Mr. N. P. Trist, a treaty commissioner for the United States, wrote a short letter to James Buchanan, then Secretary of State, saying that he had received such a proposition from the Mexican commissioners and that he had spurned and rejected it, saying that if the territory to be ceded was covered over 1 foot thick with solid gold he would not consent that it should be forever free. [Applause.] Now it is free and ever to remain so. [Applause.]

It is a source of extreme congratulation to know that not one foot of the territory acquired by conquest and purchase from our sister Republic of Mexico became slave territory, as was originally intended. Texas, a province of Mexico when the latter seceded from Spain (February 24, 1821), through the connivance of citizens of the United States—Sam Houston, of Tennessee, and others—on March 2, 1836, issued a "declaration of independence" from Mexico, and after the decisive battle of San Jacinto, fought on Texas soil on April 21, 1836, the United States recognized Texas as an independent Republic, under a constitution authorizing the existence of slavery therein. This was after President Jackson (1830) had offered $5,000,000 to Mexico for Texas.

On March 1, 1845, by resolution of Congress, consent was given to erect Texas into a State, with a view to her admission into the Union. In August following Texas framed a constitution in pursuance of the resolution, which prohibited the emancipation of slaves and authorized their importation into Texas. Under this constitution Congress formally admitted Texas into the Union of States—the last slave State admitted into the Union.

By the terms and conditions of her admission four other States, with her consent, might be formed out of her territory, those lying south of 36° 30′ north latitude should be admitted as slave States, and those north of that line should be admitted

without slavery. It was then ascertained that no part of Texas was within 200 miles of 36° 30′.

Soon (May 13, 1846) war was, on a miserable pretense, declared by the United States against Mexico, the object being to acquire more territory to dedicate to slavery. By September, 1847, the conquest of Mexico was complete, and it only remained to by treaty and purchase secure sovereignty and title to the coveted region.

This acquisition thus sought was, according to Thomas Benton, himself a slaveholder, to answer the cry for more room for slaves. Benton, in his Thirty Years' View (Vol. II, p. 680), says of the real character of the war with Mexico that:

> The truth was an intrigue was laid for peace before war was declared! And this intrigue was even part of the scheme for making war. It is impossible to conceive of an administration less warlike, or more intriguing, than that of Mr. Polk. They were men of peace, with objects to be accomplished by means of war. * * * They wanted a small war, just large enough to require a treaty of peace and not large enough to make military reputations dangerous for the Presidency.

It is now conceded history that the design and purpose of declaring war against Mexico was not to redress an international grievance but to acquire territory.

Even the great Clay, of Kentucky, had declared that it was cruel to limit slavery extension and thus starve it to death. Senator Cass justified the acquisition of more slave territory on the proclaimed doctrine of "manifest destiny."

Senator Corwin, in his great Mexican war speech, responded:

> But you still say you want room for your people. This has been the plea of every robber chief from Nimrod to the present hour. I dare say, when Tamerlane descended from his throne, built of 70,000 human skulls, and marched his ferocious battalions to further slaughter, I dare say he said, "I want room."

Interesting as this line of talk may be historically, I can not pursue it at length here.

The commissioners, on behalf of the two nations, met at Guadalupe Hidalgo, and a treaty was signed there February 2, 1848, almost exactly sixty-one years ago.

By this treaty, for $15,000,000, to be paid by the United States to Mexico, New Mexico and Upper California were ceded by Mexico to the United States, and the Rio Grande, from El Paso to its mouth, became the boundary line between the two countries.

Upper California is now the State of California; and the New Mexico territory, as bounded at the date of the cession and as acquired, included much of the present New Mexico, nearly all of Arizona, substantially all of Utah and Nevada, and the western portion of Colorado; in all, about 545,000 square miles.

By further treaty with Mexico (December 30, 1853), for $10,000,000, a large slice more of territory was acquired by the United States, which now constitutes the southern part of Arizona Territory and the southwest corner of the Territory of New Mexico. All the vast region so acquired was to be dedicated to human slavery, and slave States were promptly sought to be created out of it. A great contest arose, which precipitated or hastened the civil war. It was proposed by act of Congress to extend the Constitution of the United States over all the territory acquired from Mexico.

This was the Calhoun theory. He maintained that the Constitution did not of itself extend over acquired territory, and that when it did so extend it carried or protected slavery therein. This attempt failed. The friends of freedom sought to attach to bills in Congress to provide for territorial organizations out of parts of the Territories of New Mexico and Upper California the famous Wilmot proviso, which read:

> That no part of the territory acquired should be open to the introduction of slavery.

This, too, failed. It never became a part of any law of Congress, though agreed to by this House frequently.

The discovery of gold in California hastened its admission as a State. The bill passed Congress for the admission of California as a State in the Union August 13, 1850. It is, however, now enough to say that no part of the territory ceded to the United States by Mexico ever became slave.

If, as already stated, this bill becomes a law, the last of our Mexican-acquired territory will have been organized into States, and two more stars will be emblazoned on our flag. This happy event has come after a period of nearly two-thirds of a century's waiting, and when all, I believe, of those great statesmen and soldiers who were active in acquiring the coveted territory are in their graves, and after this country had been shaken to its foundation by war to preserve it.

Mr. HAMILTON of Michigan. Mr. Speaker, I call for a vote.

The question was taken, and, in the opinion of the Chair two-thirds having voted in favor thereof, the rules were suspended and the bill was passed. [Applause.]

LEAVE OF ABSENCE.

Mr. BENNET of New York, by unanimous consent, was granted leave of absence for three days, on account of death in his family.

Mr. BARNHART, by unanimous consent, was granted leave of absence for one week, on account of illness of secretary.

CHANGE OF REFERENCE.

By unanimous consent, reference of the bill (H. R. 27971) authorizing the Attorney-General to appoint as special peace officers such employees of the Alaska school service as may be named by the Secretary of the Interior, was changed from the Committee on the Judiciary to the Committee on Territories.

SCHOOL-TEACHERS' RETIREMENT FUND.

By unanimous consent, the bill (H. R. 19311) to provide for the formation and disbursement of a public-school teachers' retirement fund in the District of Columbia, was changed from the House to the Union Calendar.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. MCLACHLAN of California was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Mary A. Bean, Fifty-sixth Congress, no adverse report having been made thereon.

By unanimous consent, Mr. MCLACHLAN of California was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Charles R. Stevens, Fifty-sixth Congress, no adverse report having been made thereon.

By unanimous consent, Mr. PARSONS was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Harding Weston (H. R. 19294), no adverse report having been made thereon.

ALASKA PACIFIC RAILWAY AND TERMINAL COMPANY.

Mr. WATSON. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 25553) for the relief of the Alaska Pacific Railway and Terminal Company, and to recommit the same to the Committee on Territories.

The SPEAKER. Is there objection?

There was no objection.

LATE REPRESENTATIVE DANIEL L. D. GRANGER.

Mr. CAPRON. Mr. Speaker, I desire to present the following resolutions on the death of my colleague [Mr. GRANGER].

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island.

Resolved, That a committee of 15 Members of the House be appointed by the Speaker to take order superintending the funeral of Mr. GRANGER at Providence, R. I., and to attend the same, with such Members of the Senate as may be appointed by the Senate.

Resolved, That the Sergeant-at-Arms of the House be, and he is hereby, authorized and directed to take such steps as may be necessary to carry out these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The SPEAKER. The question is on the adoption of the resolutions.

The resolutions were unanimously agreed to.

The SPEAKER announced the following committee: Mr. CAPRON of Rhode Island, Mr. HOWARD of Georgia, Mr. BOUTELL of Illinois, Mr. UNDERWOOD of Alabama, Mr. HILL of Connecticut, Mr. SLAYDEN of Texas, Mr. HUGHES of New Jersey, Mr. WASHBURN of Massachusetts, Mr. WILLIAMS of Mississippi, Mr. PARSONS of New York, Mr. SHERLEY of Kentucky, Mr. GAINES of Tennessee, Mr. RYAN of New York, Mr. O'CONNELL of Massachusetts, and Mr. MARCUS A. SMITH of Arizona.

RECESS.

Mr. CAPRON. Mr. Speaker, I also desire to submit the following resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect to the memory of the deceased the House do now stand in recess until 11 a. m. to-morrow.

The resolution was agreed to.

Accordingly (at 5 o'clock and 38 minutes p. m.), the House took a recess until 11 o'clock a. m. to-morrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting an estimate of appropriation for refunding $36 to the Southern Pacific Company (H. Doc. No. 1450)—to the Committee on Appropriations and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the president of the Board of Commissioners of the District of Columbia submitting supplemental estimates of appropriations for deficiencies (H. Doc. No. 1451)—to the Committee on Appropriations and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for elevators in the Patent Office (H. Doc. No. 1452)—to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the joint resolution of the Senate (S. R. 114) authorizing the Secretary of War to dispose of certain bronze or brass cannon, reported the same with amendments, accompanied by a report (No. 2158), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 8708) authorizing the Secretary of War to donate two condemned cannon to Moores Creek Battle Ground Association, reported the same without amendment, accompanied by a report (No. 2159), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. REYNOLDS, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 21492) to authorize the sale of certain public lands, reported the same with amendments, accompanied by a report (No. 2160), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 8265) to regulate examinations for promotion in the Medical Corps of the Army, reported the same with amendment, accompanied by a report (No. 2157), which said bill and report were referred to the House Calendar.

Mr. LINDBERGH, from the Committee on Indian Affairs, to which was referred the joint resolution of the House (H. J. Res. 53) to provide for an accounting of certain funds held in trust for the Chippewa Indians in Minnesota, reported the same without amendment, accompanied by a report (No. 2161), which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. SHERMAN, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 4103) authorizing the Secretary of the Interior to ascertain the amount due O bah baum, and pay the same out of the fund known as "For the relief and civilization of the Chippewa Indians," reported the same without amendment, accompanied by a report (No. 2162), which said bill and report were referred to the Private Calendar.

ADVERSE REPORT.

Under clause 2 of Rule XIII,

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 27136) to correct the military history of Owen Smith, reported the same adversely, accompanied by a report (No. 2156), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 28073) granting a pension to Eliza T. Henderson, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. HOLLIDAY: A bill (H. R. 28136) authorizing the Secretary of War to donate two brass or bronze cannon to the city of Brazil, Ind.—to the Committee on Military Affairs.

By Mr. RYAN: A bill (H. R. 28137) to amend an act entitled "An act to promote the safety of employees and travelers on railroads by limiting the hours of service of employees thereon"—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: A bill (H. R. 28138) providing for the raising and removal of the wreck of the U. S. S. *Maine* in Habana Harbor and have the remains found therein brought to Washington for interment in the national cemetery at Arlington, Va.—to the Committee on Appropriations.

By Mr. MURPHY: A bill (H. R. 28139) authorizing the Secretary of War to furnish one condemned brass or bronze gun, with carriage and cannon balls, to the city of Boscobel, in the State of Wisconsin—to the Committee on Military Affairs.

By Mr. BRADLEY: A bill (H. R. 28140) to authorize the Secretary of War to donate two condemned bronze fieldpieces and cannon balls to the county of Orange, State of New York—to the Committee on Military Affairs.

By Mr. CLAYTON: A bill (H. R. 28141) for the erection of a public building at Union Springs, Ala.—to the Committee on Public Buildings and Grounds.

By Mr. FOSTER of Vermont: Joint resolution (H. J. Res. 257) to authorize the Secretary of State to invite the Governments of France and Great Britain to participate in the proposed tercentenary celebration of the discovery of Lake Champlain by Samuel de Champlain—to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURLESON: A bill (H. R. 28142) granting an increase of pension to Cullen C. Ratliff—to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 28143) granting a pension to Rachel R. Gwyn—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 28144) granting an increase of pension to Frederick Hortin—to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28145) granting a pension to James Lowery—to the Committee on Invalid Pensions.

By Mr. ELLIS of Missouri: A bill (H. R. 28146) for the relief of A. L. H. Crenshaw—to the Committee on War Claims.

By Mr. GOEBEL: A bill (H. R. 28147) for the relief of the owners of the steamboat *Henry M. Stanley*—to the Committee on Claims.

Also, a bill (H. R. 28148) for the relief of the owners of the steamboat *Henry M. Stanley*—to the Committee on Claims.

By Mr. HAMILTON of Michigan: A bill (H. R. 28149) for the relief of Earl Hoisington—to the Committee on Military Affairs.

By Mr. HUGHES of West Virginia: A bill (H. R. 28150) granting an increase of pension to Samuel Gideon—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 28151) granting an increase of pension to Martha J. McDuffy—to the Committee on Invalid Pensions.

By Mr. OLLIE M. JAMES: A bill (H. R. 28152) for the relief of the estates of M. F. de Graffenried and T. D. de Graffenried, deceased—to the Committee on War Claims.

By Mr. LANGLEY: A bill (H. R. 28153) granting an increase of pension to Isaac Adkins—to the Committee on Invalid Pensions.

By Mr. LOVERING: A bill (H. R. 28154) granting an increase of pension to George E. Skillings—to the Committee on Invalid Pensions.

By Mr. McHENRY: A bill (H. R. 28155) granting a pension to Jacob Kelchner—to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 28156) granting an increase of pension to Joseph Roughton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 28157) granting a pension to Tena Simmons—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 28158) granting an increase of pension to David Crum—to the Committee on Pensions.

Also, a bill (H. R. 28159) granting an increase of pension to Duncan McCraney—to the Committee on Pensions.

Also, a bill (H. R. 28160) for the relief of John H. Layne—to the Committee on Military Affairs.

By Mr. SULLOWAY: A bill (H. R. 28161) granting a pension to Hannah Edgerly—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER of New York: Petition of the Board of Trade of Lockport, N. Y., favoring an increase of duty on ferrosilicon—to the Committee on Ways and Means.

Also, petition of German Alliance of Buffalo, N. Y., against increase of duty on books and removal from the free list of the classes of books now included therein—to the Committee on Ways and Means.

By Mr. ASHBROOK: Petition of Central Trades and Labor Council of Coshocton, Ohio, protesting the decision of Judge Wright—to the Committee on the Judiciary.

By Mr. BARTHOLDT: Petition of Manufacturers and Merchants' Association of Kansas City, favoring a national bond issue for improvement of internal waterways—to the Committee on Rivers and Harbors.

By Mr. BROUSSARD: Paper to accompany bill for relief of estate of Simon Mathew—to the Committee on War Claims.

By Mr. BRUNDIDGE: Papers to accompany H. R. 12468, for the removal of charge of desertion against C. W. Fowler—to the Committee on Military Affairs.

By Mr. BURKE: Petition of the Civic Club, favoring H. R. 24148, for establishment of a children's bureau in the Interior Department—to the Committee on Expenditures in the Interior Department.

Also, petition of Pittsburg Typographical Union, No. 7, favoring census printing by the Government Printing Office—to the Committee on the Census.

Also, petition of J. F. Shafer, against bill regulating transportation of drugs between States—to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petition of American National Live Stock Association of Los Angeles, Cal., favoring enlarged powers of the Interstate Commerce Commission in matters of rate raising—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Civil Service Reform Association of New York and Columbia Typographical Union, No. 101, of Washington, D. C., against the Crumpacker census bill (H. R. 16954) and favoring census printing by the Government Printing Office—to the Committee on the Census.

Also, petition of Alaska road commission, for an appropriation of $1,000,000 for aid in road construction—to the Committee on Agriculture.

By Mr. CAPRON: Paper to accompany bill for relief of John J. Coughlin (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. CARY: Petition of National Shoe Wholesalers' Association of the United States, against a duty on hides—to the Committee on Ways and Means.

Also, petition of the National Soldiers' Home, Milwaukee, Wis., against amendment to volunteer officers' retirement bill giving veterans of 70 years and over $25 per month—to the Committee on Military Affairs.

Also, petition of W. S. H. S. annual convention, Madison, Wis., favoring H. R. 21318, regulating sale and manufacture of insecticides and fungicides—to the Committee on Interstate and Foreign Commerce.

Also, petition of Benevolent and Protective Order of Elks, for an American elk reservation in Wyoming—to the Committee on the Public Lands.

Also, petition of E. B. Lunt, of Milwaukee, Wis., against removal of duty on farm products—to the Committee on Ways and Means.

Also, appeal of Herman N. Medtbo, of North Dakota, before the Secretary of the Interior, involving homestead entry No. 18431—to the Committee on the Public Lands.

By Mr. CHANEY: Petition of Benevolent and Protective Order of Elks of Vincennes and Washington, Ind., favoring a reservation in Wyoming for the American elk—to the Committee on the Public Lands.

By Mr. COOPER of Texas: Petition of H. C. La Grone and others, favoring removal of duty on hides—to the Committee on Ways and Means.

By Mr. DAWSON: Petition of John F. Kelly & Co., of Davenport, Iowa, asking reduction of the duty on sugar—to the Committee on Ways and Means.

Also, petition of citizens of Clinton County, Iowa, favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Army and Navy Union, asking retirement of petty officers and enlisted men after twenty-five years' service—to the Committee on Naval Affairs.

By Mr. DE ARMOND: Paper to accompany bill for relief of Daniel Willhoit—to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of Benevolent and Protective Order of Elks, for a reservation in Wyoming for care of the American elk—to the Committee on the Public Lands.

Also, petition of National Shoe Wholesalers' Association of the United States, against a duty on hides—to the Committee on Ways and Means.

Also, petition of the Presbyterian Church of Rensselaer, N. Y., favoring the Burkett-Foelker bill, to prohibit telegraphing of gambling debts—to the Committee on Interstate and Foreign Commerce.

By Mr. DUREY: Petition of Glens Falls (N. Y.) Order of Elks, favoring creating a reservation in the State of Wyoming for care and maintenance of the American elk—to the Committee on Appropriations.

By Mr. ELLIS of Oregon: Petition of F. M. Shannon and 120 others, of Gilliam County, Oreg., favoring removal of duty from jute grain bags and burlap cloth used in making the same—to the Committee on Ways and Means.

By Mr. FITZGERALD: Petition of National Shoe Wholesalers' Association of the United States, for removal of tariff from hides—to the Committee on Ways and Means.

Also, petition of U. S. Grant Post, No. 327, Grand Army of the Republic, for legislation to bestow medal of honor upon Charles Rapp for gallantry at Fort Pickens in 1861—to the Committee on Military Affairs.

Also, petition of Merchants' Association of New York, favoring an appropriation of $300,000 to enable the United States to participate in the Brussels Exposition in 1910—to the Committee on Industrial Arts and Expositions.

By Mr. FULLER: Petition of the Hartman Trunk Company, of Chicago, favoring the Sherley bill (H. R. 21929)—to the Committee on the Judiciary.

Also, petition of the Edwards Hardware Company and many citizens of Mendota, Ill., favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of the American Lumberman, of Chicago, Ill., against reduction of tariff on lumber—to the Committee on Ways and Means.

Also, petition of the Western Clock Manufacturing Company, of La Salle, Ill., against reduction of tariff on cheap nickel alarm clocks and dollar watches—to the Committee on Ways and Means.

Also, petition of Wilmington (N. C.) Chamber of Commerce, favoring removal of duty on lumber—to the Committee on Ways and Means.

Also, petition of National Association of Manufacturers, of St. Louis, Mo., favoring a permanent tariff commission—to the Committee on Ways and Means.

By Mr. GOULDEN: Petition of William Stonebridge, for legislation to establish a parcels post and postal savings bank—to the Committee on the Post-Office and Post-Roads.

By Mr. GRAHAM: Petition of Pittsburg Typographical Union, No. 7, favoring census printing by the Government Printing Office—to the Committee on the Census.

Also, petition of Civic Club of Allegheny County, favoring H. R. 24148, for establishment of children's bureau in the Interior Department—to the Committee on Education.

By Mr. GRONNA: Petition of Woman's Christian Temperance Union and 76 citizens of Northwood, N. Dak., favoring passage of the Littlefield-Bacon bill, to regulate interstate commerce in intoxicants—to the Committee on the Judiciary.

Also, petition of citizens of Sarles and Plaza, N. Dak., against import duty on tea and coffee—to the Committee on Ways and Means.

By Mr. HAMILTON of Michigan: Petition of citizens of Van Buren County, Mich., favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Allegan, Mich., favoring H. R. 18204, providing for federal cooperation in technical education—to the Committee on Agriculture.

By Mr. HAMMOND: Petition of Rothe Brothers and 5 others, of Delavan, Minn., against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

Also, protest of B. C. Preugrey and 16 others, against parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of C. E. Fredricksen and 32 others, of Elmore, Minn., against duty on tea and coffee—to the Committee on Ways and Means.

By Mr. HASKINS: Petition of the Congregational Church Society of Newfane, Vt., favoring H. R. 24148, for federal bureau for children—to the Committee on Expenditures in the Interior Department.

Also, petition of the Congregational Church of Newfane, Vt., favoring enactment of the so-called "Littlefield-Bacon bill"—to the Committee on the Judiciary.

Also, petition of the Congregational Church Society of Newfane, Vt., favoring amendment to Constitution prohibiting polygamy—to the Committee on the Judiciary.

By Mr. HAYES: Petitions of Arthur Duckworth and 47 others, of Syracuse, Ohio; Walter O. Webster and 32 others, of Philadelphia, Pa.; and H. H. Smith and 47 others, of Tallahousa, Tenn., favoring an effective Asiatic exclusion law against all Asiatics excepting merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. HILL of Connecticut: Petition of citizens of Waterbury, Conn., against water rights of San Francisco in the Hetch Hetchy Valley, California—to the Committee on the Public Lands.

Also, petition of citizens of Stratford, Conn., favoring the Burkett-Foelker bill (S. 8703) preventing telegraphing of gambling bets, etc.—to the Committee on the Judiciary.

Also, petition of Rippowan Grange, No. 145, of Stamford, Conn., favoring the establishment of the parcels-post and postal savings bank system—to the Committee on the Post-Office and Post-Roads.

Also, petition of Lodge No. 709, Benevolent and Protective Order of Elks, for creation of American elk reservation in the State of Wyoming—to the Committee on Agriculture.

By Mr. HINSHAW: Petition of business men of Aurora, Gresham, Ulysses, Bradshaw, Garrison, David City, Rising City, Surprise, Shelby, Osceola, and Stromsburg, all in the State of Nebraska, against parcels-post and postal savings bank laws (S. 5122 and 6844)—to the Committee on the Post-Office and Post-Roads.

By Mr. HULL of Iowa: Petition of Sunshine Camp, No. 5533, Modern Woodmen of America, of Dallas, Iowa, against the so-called "uniform or minimum rate bill," proposed by the National Fraternal Congress and the Associated Fraternities—to the Committee on Interstate and Foreign Commerce.

By Mr. KAHN: Petitions of A. L. Burgess and 48 other residents of Stockdale, Ohio; G. E. Martin and 47 other residents of Vaughn, W. Va.; W. H. McCoy and 18 other residents of Gem, W. Va.; F. C. Thompson and 27 other residents of Coatesville, Pa.; J. J. Kemp and 29 other residents of Middlesex, N. C.; Robert J. Rhein and 32 other residents of Cincinnati, Ohio; and William E. Eaton and 95 other residents of Seattle, Wash., favoring an effective Asiatic exclusion law against all Asiatics excepting merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. KENNEDY of Iowa: Petition of John Blants Sons Company, of Burlington, Iowa, favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. KIMBALL: Petition of Lizzie R. Ashurst, administratrix of the estate of William Ashurst, asking reference of her claim to the Court of Claims—to the Committee on War Claims.

Also, petition of S. S. Ardery, administrator of the estate of Lafayette Ardery, asking reference of his claim to the Court of Claims—to the Committee on War Claims.

By Mr. LINDBERGH: Petition of citizens of Little Falls, Minn., against a duty on tea and coffee—to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of National Shoe Dealers' Association of the United States, opposing duty on hides—to the Committee on Ways and Means.

Also, petition of the Orange Judd Company, favoring passage of the White Mountains and Appalachian Mountains bill with the Weeks amendment—to the Committee on Agriculture.

Also, petition of H. R. Fuller, protesting against passage of H. R. 26725—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Windmill Manufacturers' Club of Chicago, favoring a reduction of duty on iron and steel—to the Committee on Ways and Means.

Also, petition of Francis W. Johnston, favoring passage of H. R. 24148, for creation of child-labor bureau—to the Committee on Expenditures in the Interior Department.

Also, petition of the Kansas State Retail Merchants' Association, favoring ocean mail subsidy—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Merchants' Association of New York, asking an appropriation for international exhibition to be held at Brussels—to the Committee on Industrial Arts and Expositions.

By Mr. LORIMER: Petition of T. J. Akins, favoring increase of duty on bagging for cotton bales—to the Committee on Ways and Means.

By Mr. LOUD: Petition of citizens of Montmorency County, Mich., favoring the parcels-post and postal savings bank bills (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

By Mr. McMILLAN: Petition of citizens of Hudson, N. Y., against Sunday-closing bill (S. 3940)—to the Committee on the District of Columbia.

By Mr. McMORRAN: Petition of dealers and growers of beans, favoring retention of duty on beans—to the Committee on Ways and Means.

By Mr. MALBY: Petition of the Brotherhood of the Presbyterian Church of Canton, N. Y., favoring H. R. 24148, to establish in the Department of the Interior a children's bureau—to the Committee on Expenditures in the Interior Department.

Also, petition of residents of the Twenty-sixth Congressional District of New York, favoring a national highways commission—to the Committee on Agriculture.

By Mr. NEEDHAM: Petition of the Benevolent and Patriotic Order of Elks, asking for the creation of a reserve in the State of Wyoming—to the Committee on the Public Lands.

Also, petition of citizens of California, favoring Senate bill 5615, concerning importation of injurious insects, etc.—to the Committee on Agriculture.

By Mr. PAGE: Petition of citizens of Randolph County, N. C., against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. PARSONS: Petition of residents of Oak Park, Cook County, Ill., favoring the Parsons bill (H. R. 24148), establishing a children's bureau in the Department of the Interior—to the Committee on Expenditures in the Interior Department.

By Mr. PERKINS: Petition of T. W. Grant and others, favoring a national highways commission—to the Committee on Agriculture.

By Mr. PETERS: Petition of the Boston Surgical Trade Association, against removal of duty on surgical instruments—to the Committee on Ways and Means.

By Mr. PORTER: Petition of Oakfield (N. Y.) Grange, for retention of duty on beans—to the Committee on Ways and Means.

By Mr. REEDER: Petition of citizens of Kansas, asking passage of so-called "Littlefield bill"—to the Committee on the Judiciary.

By Mr. ROBINSON: Papers to accompany bill granting a pension to W. C. Whitthorne (H. R. 27463)—to the Committee on Pensions.

By Mr. RYAN: Petition of manufacturers and shippers of Rockford, Ill., approving the Townsend bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Shenandoah Valley Fruit Growers' Association in favor of H. R. 21318, relating to fungicides—to the Committee on Interstate and Foreign Commerce.

By Mr. SABATH: Petition of Illinois Manufacturers' Association, favoring the ocean mail subsidy bill—to the Committee on the Merchant Marine and Fisheries.

By Mr. SMITH of Michigan: Petition of M. V. Nowlin and 17 others, of the District of Columbia, against S. 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

By Mr. SWASEY: Petition of sundry citizens of North Jay, Me., against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. TOU VELLE: Petition of Henry Callett and 20 soldiers of Ansonia, Ohio, opposing 70 years of age as limit in H. R. 23244—to the Committee on Military Affairs.

By Mr. VREELAND: Petition of residents of Conewango Valley, Cattaraugus County, N. Y., against passage of Senate bill 3940—to the Committee on the District of Columbia.

Also, petition of oil producers of Allegany County, N. Y., against any change in tariff on crude oil—to the Committee on Ways and Means.

SENATE.

TUESDAY, *February 16, 1909.*

Prayer by the Chaplain, Rev. Edward E. Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

INTERSTATE BUSINESS BY TELEGRAPHERS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, by direction of the President and in response to a resolution of May 28, 1908, a report showing the results of an investigation made by the Bureau of Labor into the Western Union and Postal Telegraph companies (S. Doc. No. 725), which on motion of Mr. KEAN, was, with the accompanying paper, referred to the Committee on Interstate Commerce and ordered to be printed.

IRON ORE AND PIG IRON.

The VICE-PRESIDENT. The Chair lays before the Senate a communication from the Secretary of Commerce and Labor, stating, in response to a resolution of the 10th instant calling for information in respect to the total amount of iron ore and pig iron manufactured in the United States in any twelve successive months ending not earlier than June 30, 1908, that no statistics on the subject have been collected since 1905, and suggesting that the Geological Survey may be able to furnish the information desired. The Chair calls the attention of the junior Senator from Iowa to the communication.

Mr. CUMMINS. I shall prepare a resolution directed to the Director of the Geological Survey of the Department of the Interior, that we may get the information without additional expense.

The VICE-PRESIDENT. The communication will lie on the table and be printed (S. Doc. No. 722).

FINDINGS OF THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact filed by the court in the following causes:

In the cause of the Masonic Hall Trustees of Atlanta, Ga., *v.* United States (S. Doc. No. 723); and

In the cause of Magloire G. Blain *v.* United States (S. Doc. No. 724).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 9295) in relation to the salary of the Secretary of State.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 26725. An act to supplement an act entitled "An act to promote the safety of employees and travelers upon railroads;" and

H. R. 27891. An act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice-President:

S. 3969. An act to amend the laws of the United States relating to the registration of trade-marks;

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors;

S. 8628. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to certain widows and dependent relatives of such soldiers and sailors;

S. 8629. An act granting pensions and increase of pensions to certain soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, N. C.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 24831. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25391. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 25806. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 26461. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned bronze cannon and cannon balls to the city of Bedford, Ind.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Board of Trade and the citizens' statehood committee of Benson, Ariz., praying for the admission of that Territory into the Union as a State, which was referred to the Committee on Territories.

Mr. CULLOM presented a petition of the Woman's Christian Temperance Union of Naperville, Ill., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquor, which was referred to the Committee on the Judiciary.

He also presented a memorial of the Civil Service Reform Association of Chicago, Ill., and a memorial of the Men's Sunday Evening Club of Peoria, Ill., remonstrating against any effort being made to pass the so-called "Crumpacker census bill" over the President's veto, which were referred to the Committee on the Census.

He also presented a memorial of Grand Army Post No. 141, Department of Illinois, Grand Army of the Republic, of Decatur, Ill., remonstrating against the enactment of legislation providing for the consolidation of certain pension agencies throughout the country, which was referred to the Committee on Pensions.

He also presented a petition of the George Rogers Chapter, Daughters of the American Revolution, of Oak Park, Ill., and a petition of the Illinois Chapter, American Institute of Architects, of Chicago, Ill., praying for the enactment of legislation providing for the erection of the Lincoln memorial in Washington, D. C., on the site selected by the Park Commission, which were referred to the Committee on the Library.

Mr. SCOTT presented a petition of the Ohio Valley Trades and Labor Assembly of Wheeling, W. Va., praying for the enactment of legislation authorizing the census printing to be done at the Government Printing Office, which was referred to the Committee on the Census.

He also presented a petition of sundry citizens of Wheeling, W. Va., praying for the enactment of legislation to create a national reserve in the State of Wyoming for the care and maintenance of the American elk, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. GALLINGER presented a petition of the Granite State Dairymen's Association, of Contocook, N. H., praying that an appropriation be made for the establishment and improvement of rural schools, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Garfield Citizens' Association, of the District of Columbia, remonstrating against the enactment of legislation to regulate the construction of buildings in the District of Columbia, which was referred to the Committee on the District of Columbia.